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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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SUMMARY RECORD OF THE 1282nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 6 August 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Twelfth and thirteenth periodic reports of Morocco (CERD/C/298/Add.4; HRI/CORE/1/Add.23) (continued)

1. At the invitation of the Chairman, Mr. Benjelloun Touimi, Mr. Belmahi and Mr. Majdi (Morocco) took places at the Committee table.

2. Mr. BENJELLOUN TOUIMI (Morocco), Permanent Representative of Morocco to the Office of the United Nations in Geneva, introducing the report of Morocco (CERD/C/298/Add.4), said that that document combined the twelfth and thirteenth periodic reports of his country.

3. In the course of the 1990s, the Kingdom of Morocco had taken a number of normative and institutional measures to improve and increase respect for human rights and a number of concrete initiatives in their favour. That effort had been expanded to include the revision of the Constitution and the creation of a bicameral Parliament, thereby setting the stage for early general elections, which had resulted in a Government of a different complexion. Its formation, under the leadership of Mr. El Youssoufi, a member of the opposition who had long worked in Geneva in non-governmental human rights organizations, constituted an historic moment in the modernization of Morocco's political life.

4. Presenting his Government's programme in Parliament on 17 April 1998, the Prime Minister had stated that "the defence of universally recognized human rights constitutes one of the essential policies of the Government". That commitment must lead to a final settlement of a number of situations still pending by bringing legislation into line with the international instruments to which Morocco was a party and by a more sustained effort to promote the culture of human rights. The reform of the judiciary would be given priority in the Government's action.

5. As an extension of that positive development, Morocco was endeavouring to strengthen that action by fostering the culture of human rights at all levels of society so that all citizens became imbued with human rights values in their public and private lives. At the level of secondary education, the objective was to prepare pupils to become receptive to the basic principles of human rights and to adopt positions and behavioural patterns which showed that they had become aware of those rights and respected those of others. That human rights education programme was being implemented in cooperation with the United Nations High Commissioner for Human Rights in accordance with an agreement on the subject signed in 1997.

6. In addition to those measures, Morocco was endeavouring to broaden and intensify the dialogue and cooperation with national associations directly or indirectly involved with human rights questions in order to adopt solutions which showed the greatest respect for human rights. It was also seeking to expand and intensify the dialogue with international and regional governmental and non-governmental organizations so as to consolidate cooperation and give

Morocco a more dynamic role on the international scene. In that context a first meeting of Mediterranean national institutions had been held in Marrakesh in April 1998; it had been attended by the High Commissioner for Human Rights, Ms. Mary Robinson. Subsequently, in May 1998 the Secretary-General of Amnesty International had visited Morocco to inaugurate the offices of that organization in Rabat and have a number of meetings with both members of the Government and representatives of civil society.

7. Those decisions and measures, although not directly linked to the provisions of the Convention, had nevertheless given positive impetus to the strengthening of the legal, administrative and judicial framework of human rights protection.

8. Concerning the International Convention on the Elimination of All Forms of Racial Discrimination, the various reports submitted to the Committee showed that the Moroccan authorities had never recorded any violations of that instrument.

9. On the subject of article 4 and the need for all countries to enact criminal legislation specifically punishing acts of racial discrimination, the Prime Minister had not failed to point out in his Government's statement in Parliament that the "Moroccan Government would bring Moroccan legislation into line with international instruments" as concerned human rights.

10. Mr. de GOUTTES (Country Rapporteur for Morocco) was pleased that the Government of Morocco was regularly fulfilling its treaty obligations. In so doing it was demonstrating a praiseworthy determination to maintain a regular dialogue with the Committee, which was not the case with all States parties. He also welcomed the presence of a high-level Moroccan delegation and expressed appreciation of the quality of the oral presentation it had just delivered.

11. The consideration of the periodic report of Morocco was of particular interest to the Committee. Firstly, Morocco had a key position owing to its special role as a bridge between the European and the African and Islamic worlds, and also its stability in a region which had too often had to face internal divisions and currents of fanaticism or intolerance. Secondly, in recent years Morocco had gradually committed itself to reform, modernization, openness and strengthening the rule of law, an enterprise which the Committee could not but support and encourage.

12. In the light of that very positive trend and the special attention which the Committee had given to Morocco's latest report, the thirteenth periodic report did not appear to meet the Committee's expectations. The oral explanations provided by the delegation had to a certain extent updated the core document, which had not been modified since 28 April 1993. But as to the report as such, the information contained in both parts was rather perfuntory, too exclusively legal and too restricted to an enumeration of texts. It did not cast sufficient light on the practical, concrete and effective implementation of the provisions of the Convention in Morocco. Nor did it answer certain questions posed and observations made by the members of the Committee in 1994 during the consideration of the previous report, in particular on the subject of the four main points which had been raised at that time, namely the insufficient data on the ethnic composition of the

population; the failure to bring Moroccan domestic legislation into line with the requirements of article 4 of the Convention; the absence of statistical data and practical examples of court decisions following complaints of acts of racial or ethnic discrimination; and the insufficiency of the information on the situation of certain population groups likely to be targets of discrimination.

13. The report did, however, contain some interesting information on land and people, general political structure, authorities with jurisdiction for the protection of human rights, remedies available in the event of violation of human rights and publicity and information on human rights. It also contained a number of positive elements: the constitutional affirmation of respect for human rights; the possibility of directly invoking ratified international conventions in the courts; establishment of machinery to monitor the implementation of the recently ratified Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Chld; the entry into force of the Convention against Torture; the establishment of the Human Rights Advisory Council and the Ministry of Human Rights; the constitutional guarantee of equality of all citizens before the law and the rights of foreigners in Morocco; and the initiation by the King in 1994 of steps towards a revival of the Berber language and culture.

14. But that information needed to be fleshed out on a number of points. Firstly, concerning the composition of the population, he noted that, when the eleventh periodic report of Morocco had been considered, the Committee had reiterated the need to have information on the ethnic characteristics of the population and had asked the Moroccan delegation to indicate why the authorities had carried out studies and censuses solely on the basis of socio-economic criteria, and not ethnic, racial or linguistic ones, which would have given a more complete idea of the population. Unfortunately, paragraphs 2 and 3 of the report only provided a few brief figures from 1994 and 1995 on the total population of the country, the average density, the working population and the proportion of Moroccans living in rural or urban areas. Those figures still failed to enlighten the Committee on the ethnic characteristics of the Moroccan population. He reiterated the Committee's request in that regard and hoped that the Morocan delegation would provide more complete information in its next periodic report.

15. The second point which needed to be developed concerned the general political, economic and social context in the country, on which paragraphs 1 to 16 of the thirteenth report did not provide sufficiently detailed and recent information. That was all the more regrettable in that the Government surely had much to say, since it had committed itself in recent years to strengthening the rule of law, improving the situation of human rights and undertaking a vast project of reform, modernization and a gradual political and economic opening - all subjects in which the Committee was very interested.

16. In particular, he asked the delegation to provide updated information on the process of political change embarked upon by the King and the lessons which could be drawn from the coexistence within the Government of rival political forces.

17. The Committee would also like to obtain more details about the basic reforms undertaken in the area of the judiciary. He had in mind initiatives by the Minister of Justice to combat corruption, to restructure the judicial system, to improve the training of judges and reform their status, to humanize conditions of detention in overcrowded prisons and to revise the criminal procedure and the prison code. Turning to the social, economic and administrative fields, he asked the delegation to inform the Committee what progress had been made with the plans to modernize secondary and vocational education, combat illiteracy and unemployment and create a national solidarity and regional development fund with a view to better offsetting the regional imbalances between the wealthiest and the economically most disadvantaged regions which still existed.

18. Updated information was also necessary on developments in the Western Sahara issue and the implementation of the United Nations settlement plan and the Houston agreements in that regard.

19. In keeping with the Committee's usual request, it would be useful for the Moroccan delegation to provide information on socio-economic indicators concerning the implementation of the Convention, since those data made it possible to identify any social group particularly exposed to marginalization and exclusion and least likely to be integrated in society.

20. In the area of human rights protection, States were no longer solely under an obligation not to do something, to refrain from taking action or interfering (as had initially been the case for civil and political rights only); they also had "positive" obligations to take a number of measures, notably economic and social, to ensure the effective realization of and full respect for certain rights, even in relations between individuals (the so-called "horizontal" effectiveness of rights), as noted by the Committee in its recommendation No. XX (48) of 1996. Those socio-economic indicators were all the more necessary in that, according to the latest annual report of the Moroccan Organization of Human Rights (OMDH), the number of persons living below the poverty line was continuing to grow under the impact of the policy of structural adjustment and the failure to comply with the social conditions attaching to privatizations. According to the OMDH, the constant deterioration of living conditions was seriously prejudicing the normal enjoyment, not only of social and economic rights, but also of civil and political rights in Morocco. In 1994 the Committee's experts had referred, among others, to the Berbers, the nomads, the Sahrawis, the Blacks and the Baha'is as the groups most likely to be disadvantaged.

21. What had been the concrete result of the activities of the Human Rights Advisory Council since its creation in 1990? What opinions and recommendations had it adopted? What practical influence had it had on the Government? How were its relations with organizations in civil society? According to the latest report of the OMDH, the Advisory Council had not met at all during the past year and had not taken any new initiative in the area of human rights protection, notably as concerned the settlement of cases of victims of enforced disappearances. The OMDH also criticized the status and composition of the Advisory Council, which, it alleged, were not in conformity with United Nations resolutions on national human rights institutions.

22. The powers of the Ministry of Human Rights seemed to be entirely consistent with the Committee's wishes and recommendations. However, the attachment of that body to the Ministry of Justice in August 1997 seemed to him liable to weaken its role, since there also existed a division responsible for humanitarian and social rights in the Ministry of Foreign Affairs, whose responsibilities included monitoring of the implementation of Morocco's commitments under international human rights instruments. The OMDH was of the view that the attachment of the Ministry of Human Rights to the Ministry of Justice formalized a de facto situation which had prevailed since 1995, namely the insignificant role of the former in the area of protecting and promoting human rights. He asked for the delegation's views on the matter.

23. The development of the role of NGOs and civil society in Morocco constituted a particularly significant advance and a very encouraging sign of an improved human rights situation. However, the Committee regretted the negative image resulting from the decision taken by the Supreme Court of Morocco on 16 July concerning Mr. Abraham Serfaty, an emblematic figure of the opposition and former member of the Moroccan Communist Party who had been sentenced to life imprisonment after being found guilty of plotting against the internal security of the State for having called for the self-determination of the people of the Western Sahara. Mr. Serfaty had been in prison for 17 years, then released and expelled to France in 1991 because he was supposedly of Brazilian nationality. By not ruling on Mr. Serfaty's nationality (Moroccan according to him, Brazilian according to the Moroccan Ministry of the Interior), the judgement of the Supreme Court of Morocco basically upheld the expulsion order and thus prohibited Mr. Serfaty from returning to his country of birth. That decision, apparently linked to new statements by Mr. Serfaty in favour of a federal structure between two States, Moroccan and Sahrawi, unfortunately risked being interpreted as a retrograde step in the area of human rights. The Moroccan delegation would no doubt wish to enlighten the Committee on the case.

24. Regarding part 2 of the report, entitled "Information in relation to articles 2 to 7", he said that many misunderstandings had arisen in connection with the assertion made in paragraph 50 that "problems of racial discrimination do not exist in Morocco" and that "Moroccans do not segregate or discriminate on the basis of race, colour, descent or origin". In the opinion of the Moroccan Government, as "the problem of racial discrimination does not arise in Morocco" (paragraph 54), the delegation was not in a position to provide information on the existence of special legislation making all forms of acts of racism an offence, as required by article 4 of the Convention; on the numbers of complaints, investigations or judgements punishing acts of racism, in conformity with article 6 of the Convention; and on the conditions in which the enjoyment of the rights specified in article 5 of the Convention was effectively guaranteed in practice without any racial or ethnic discrimination.

25. As to the implementation of articles 2 to 4 of the Convention, he noted that the State party had merely observed that equality of all before the law was anchored in the Constitution without citing any provision condemning the acts set out in article 4 of the Convention, arguing that the problem of racial discrimination did not arise in Morocco and that the general provisions of the law were sufficient to sanction any racist acts (paragraphs 54 to 60).

In general, all the texts cited in the report, apart from the specific provision of the dahir of 15 November 1958 which prohibited racial discrimination in the formation of political parties, were too general in view of the requirements of article 4.

26. In that connection, he reminded the delegation of Morocco that for the Committee, it was in any event necessary to have legislation prohibiting racism, so as to prevent any development of racism, and to enshrine in the law the commitment of the State to combating racism and promoting values of tolerance and interracial and ethnic understanding within the framework of an educational system directed to combating discrimination.

27. Likewise, the information provided in paragraphs 61 to 71 was too general and did not offer any concrete examples of measures to combat discrimination against the most disadvantaged groups, and in particular Berbers, nomads, Sahrawis, Blacks and Baha'is.

28. The Committee would be grateful to the delegation of Morocco if it could provide frank explanations on the situation of Moroccan Blacks, who were usually at the bottom of the social scale and were sometimes the victims of various forms of discrimination owing to the prejudices of certain Arabs and Berbers in the majority population. Clarification was also necessary on the situation of the Sahrawis, hundreds of whom, according to the 1998 report of Amnesty International, had disappeared in previous years, while the persons released in 1991 and the families of prisoners who had died in incommunicado detention or had suffered ill-treatment on account of their alleged support for the independence of Western Sahara had reportedly not received the compensation owed them.

29. Concerning the Baha'is, the Committee had still not received the replies to the questions it had asked when it had considered the periodic report of Morocco in 1994. It still did not know whether Baha'is were an inter-ethnic group the membership of which included Arabs, Berbers, Blacks, nomads and Sahrawis and whether they were refused passports to leave the country. On that occasion it had taken the view that the fact that the Baha'is were considered heretics was incompatible with the right of everyone to freedom of religion, conscience and expression, without any discrimination, as laid down in article 5 of the Convention. With regard to that article, he would like to have more information on the draft labour code referred to in paragraph 70 of the report, an important initiative which aimed to prohibit expressly and render punishable by fine all discrimination based on race, colour, national descent or other reason in employment or professional matters, vocational training, wages, advancement, social benefits, dismissal and disciplinary measures. Once adopted, the code would constitute an important innovation in Morocco in the fight against racial discrimination in the economic sphere.

30. In respect of the implementation of article 6, the report only indicated the remedies available in the event of violations of human rights and did not provide any example of a complaint or a judgement or any court statistics on complaints, prosecutions, sentences or decisions on compensation concerning racist offences. He reminded the delegation that the assertion that there were no racist offences did not dispense the State party from the obligation

to enact legislation, because the absence of complaints or prosecution and light sentences might be signs of a failure to inform the public, indifference on the part of the police and court authorities with regard to racist offences and leniency of the courts towards that type of offence.

31. As to the implementation of article 7 of the Convention, he said that paragraphs 74 to 78 of the report contained encouraging information on the efforts of the Moroccan Government to promote teaching of human rights in the education system and to improve awareness of human rights among the police, lawyers, doctors, judges, educators, trade unions and NGOs. He asked the Moroccan delegation for an account of those activities.

32. Having taken note of the very positive information contained in paragraphs 79 to 87 of the report on the recognition of the special features of the Berber culture and the introduction of classes in Berber dialects in schools, the Committee hoped that the Moroccan delegation would provide it with an initial assessment of the work of the commissions responsible for those questions and inform it whether concrete action had been taken to give effect to policies to promote the Berber languages and culture.

33. He noted with satisfaction the information that the Moroccan authorities had published the text of the Convention since 1970 and asked what measures the Moroccan Government had taken or intended to take to publish its periodic reports as well as the corresponding conclusions, observations and recommendations of the Committee.

34. Lastly, he asked the delegation whether the Government of Morocco planned to make the optional declaration under article 14 of the Convention and whether it had taken the requisite measures to agree officially to the amendment to article 8 of the Convention concerning the financing of the Committee.

35. Mr. VALENCIA RODRÍGUEZ asked what results had been obtained by the various bodies created by the Moroccan Government, notably the Human Rights Advisory Council, the National Council on Youth and the Future, the service of the Ministry of Justice responsible for monitoring and protecting human rights and the division of the Ministry of Foreign Affairs and Cooperation, and what results were expected from the activities of those bodies. He asked how were the activities of those bodies coordinated. He also inquired whether complaints of racist violations were heard in an administrative procedure or by courts of first instance and, lastly, whether the decisions of the competent courts were subject to appeal.

36. Concerning the implementation of article 2 of the Convention, he noted that, according to the report, there were no problems of racial discrimination in Morocco because of contacts between Moroccan society and other peoples and cultures. He was very pleased to note that the members of the Jewish community enjoyed the same rights as other citizens and hoped that the Government would continue to keep the Committee informed of developments in that policy, in particular with regard to the Berbers.

37. In respect of the implementation of article 4, he reminded the delegation that States parties were required to adopt provisions specifically prohibiting racial discrimination, even if they considered that the phenomenon did not exist in their societies.

38. In view of the dearth of information on the implementation of article 5, he asked the Moroccan Government to provide the Committee with more details, in particular concerning the civil, political, economic, social and cultural rights of the Berber population.

39. Regarding article 6 of the Convention, he inquired whether international standards, which took precedence over domestic provisions, could be directly invoked in the courts, and whether the population, and lawyers and judges in particular, had received information on the international standards on racial discrimination.

40. As to the implementation of article 7 of the Convention, it would be useful to take new measures to develop the teaching of human rights and promote the Berber culture. The Committee would like to receive information on the results obtained.

41. The information concerning radio and television broadcasts in Arabic, French, English and Spanish was satisfactory, but he would like more information about broadcasts in Berber. He also hoped that the text of the Convention, the periodic report of Morocco and the relevant conclusions of the Committee would be disseminated as widely as possible in Morocco.

42. Ms. McDOUGALL inquired what measures had been taken by the Government of Morocco to disseminate knowledge of the Convention among government officials and to heighten their awareness of the racial discrimination issues raised by it. She would also like to know about the achievements of the Advisory Councils and of programmes relating to human rights created by the Government and whether the Councils had decision-making powers. She asked the Moroccan delegation to provide the Committee with figures on cases of racial discrimination which had been referred to the courts as well as information showing how the courts had ruled. Furthermore, she inquired whether the Government had itself taken the initiative in certain instances to refer cases involving acts of racial discrimination to the courts and what the outcome had been. Finally, she asked whether needy individuals received free legal aid or some form of financial assistance so that they could institute proceedings for racist acts.

43. In view of the deficiencies already noted in the reports submitted by Morocco in 1994 and 1996, she said that it would be useful to have clarification on the socio-economic situation of the majority of Moroccan Blacks and to know whether the Government was taking active measures to combat the racial discrimination of which those persons were the victims, and in particular racist acts occurring in everyday life.

44. Reminding the delegation of the questions asked in 1994 and 1996 by Mr. Sherifis and Mr. Diaconu, she said that she would be grateful to the Moroccan delegation if it could provide the Committee information on discrimination against foreign workers and legal provisions for granting foreigners citizenship.

45. Mr. DIACONU noted that the first reference to a legislative provision on racial discrimination did not appear until paragraph 58 of the report under consideration, where mention was made of dahir 258, and paragraph 70, concerning the draft labour code. The latter suggested that racial discrimination did in fact exist in Morocco, at any rate in that area. Likewise, the information provided in paragraph 80, which spoke of the existence of a Berber culture in the broad sense that was based on religion, traditions and spiritual notions, proved the presence of a Berber ethnic reality. Consequently the Moroccan State should recognize the Berber ethnic group as such and treat it in a manner in conformity with the provisions of the Convention.

46. Concerning article 4, he had taken due note of the information provided by the delegation of Morocco that the Government of Morocco intended to bring national legislation into line with international standards, and he deeply hoped that article 4 of the Convention would be incorporated into Moroccan national legislation at that time.

47. Regarding measures to promote teaching in minority languages in order to reflect the cultural diversity of Morocco, he had taken note with considerable interest of the royal declaration of 1994 recognizing the need to introduce the teaching of Berber dialects.

48. On the general plan, he was prepared to agree that racial discrimination in Morocco might not be widespread, but he reaffirmed the need to make preventive legislation in order to prohibit even isolated racist acts.

49. As to religious freedom, he said that the Committee carefully avoided any confusion between religion and ethnic group, terms which did not necessarily refer to matching realities, and it only discussed the question of religious freedom to the extent that its enjoyment was the target of racial, ethnic or national discrimination.

50. Ms. ZOU reminded the delegation that the provisions of article 4 were binding and that all States parties were required to pass legislation giving them effect. As the information provided in paragraphs 56-60 of the report did not directly deal with measures to combat racial discrimination, the Government of Morocco should consider drafting without delay provisions which were fully consonant with the spirit of the Convention. No country could claim to be totally free of racial discrimination, and Morocco was no exception to that rule.

51. The CHAIRMAN endorsed that opinion.

52. Mr. YUTZIS likewise expressed satisfaction at the productive dialogue between the delegation of Morocco and the Committee and thanked Mr. de Gouttes for his thorough analysis of the report. The information contained therein needed to be fleshed out by more precise statistics concerning, in particular, the proportion of members of the Jewish community that had access to high-level posts and representative bodies (para. 52). Concerning paragraph 51 of the report, he asked why the Moroccan authorities only recognized freedom of worship for monotheistic religions. He asked whether there were plans to broaden that tolerance.

53. Mr. van BOVEN first expressed his satisfaction at the appointment to the post of Prime Minister of Mr. Youssoufi, an ardent defender of human rights whom he had had the privilege of meeting when he had been Secretary-General of the Union des avocats arabes.

54. The assertion in the report that the problem of racial discrimination did not arise in Morocco could not be sufficient for the Committee. Even if it took on "discreet" forms in certain countries, racial discrimination was unfortunately a universal reality. Consequently the creation of a sound legislative framework was an obligation for all States Parties for purposes of punishment in conformity with article 4, and for the purposes of prevention in accordance with article 7.

55. He agreed with the concern expressed by Mr. de Gouttes about missing Sahrawis and looked forward to the delegation's explanation. Among the positive measures he welcomed the real and growing place set aside for Berber culture. Lastly, he called upon the State party to consider making the declaration under article 14 of the Convention and to take the necessary steps for official acceptance of the amendment to article 8, paragraph 6, of the Convention without delay.

56. Ms. SADIQ ALI, acknowledging the quality of the report of Morocco, focused on the domestic unrest which periodically shook the country. To mention just two examples: the security forces had intervened brutally in February 1994 in Fez against radical Muslims and students belonging to left-wing organizations, and in May 1997 the police had used force in an unjustified manner to disperse non-violent demonstrations organized by the Association of Unemployed Degree-Holders, causing many injuries. She asked whether the Government of Morocco had taken measures to remedy the discontent of certain categories of the population, of which those demonstrations were an illustration.

57. Mr. DIACONU pointed out that questions of unemployment and domestic conflicts had nothing to do with the provisions of the Convention which the Committee was responsible for monitoring.

58. The CHAIRMAN agreed with that observation, which also applied to religious questions. He also objected to the insistent calls directed at delegations with regard to article 14 and the desire of certain European countries to impose their values on the rest of the world. All States Parties were aware of the existence of that article and must be free to decide whether or not to make the declaration referred to therein.

59. Ms. SADIQ ALI stressed that the question was not unrelated to the work of the Committee, because it was very likely that a large proportion of the many unemployed degree-holders were of foreign origin.

60. Mr. de GOUTTES pointed out that the unemployment rate could be interpreted as a socio-economic indicator of the lack of integration of certain minority groups in a society. If certain racial or ethnic characteristics were associated with these groups, then the question of unemployment did in fact fall within the purview of the Committee. The same

applied to domestic unrest, which might constitute a threat to the right to security of person and to protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution (article 5 (b) of the Convention).

61. Also, although the declaration under article 14 of the Convention was optional, it was a valuable contribution to the Convention's effective implementation. The assertion that that was a typically European approach was unfounded, because, firstly, the General Assembly itself had urged States to make the declaration and, secondly, the 25 states that had done so included Algeria, Chile, Costa Rica, Ecuador, Peru, the Republic of Korea, Senegal and Uruguay, none of them European countries. Those countries had had the courage to expose themselves to the potential inconveniences of such a commitment in terms of sovereignty and deserved praise.

62. Mr. DIACONU said that he was not insensitive to the arguments put forward but objected to the constant tendency to extend the work of the Committee to areas which did not concern it.

63. Mr. RECHETOV said that countries which made the declaration under article 14 took an additional step towards the most effective possible implementation of the Convention, and the ideal situation would be for all States parties to follow suit. Although it must be recognized that, for historical, cultural and economic reasons, certain articles of the Convention were implemented differently in each country, there were no grounds for alleging that content of article 14 reflected a "European frame of mind".

64. Mr. SHAHI referred to Morocco's commitment, reaffirmed in its Constitution, to universally recognized human rights (para. 17 of the report) and to the creation in 1993 of the Ministry of Human Rights, whose functions included studying all laws and regulations to assess their conformity with human rights principles and propose any necessary adjustments. He requested the Moroccan delegation, when it introduced the next report, to explain in detail what concrete measures had been taken to bring Moroccan domestic law into line with international treaties.

65. Mr. BENJELLOUN TOUIMI (Morocco) said that, as Mr. de Gouttes had seen, there was a need to dispel a misunderstanding concerning a lack of information on various ethnic groups before continuing the dialogue. Although the Moroccan population had in fact emerged from two different ethnic groups, Arabs and Berbers, over the centuries, and as a function of the various dynasties which had governed the country, a number of Berber tribes had taken on Arab characteristics and a number of Arab tribes had taken on Berber characteristics, and even the persons concerned would often have difficulty saying which ethnic group they belonged to. As to the distinction between persons of black African and White African descent, intermingling between those two parts of Africa had been such that a single family might be made up of Blacks and Whites. In Morocco there was a tendency to identify oneself as belonging, for example, to the group of a particular town rather than on the basis of ethnicity or colour. That was why the Moroccan Government did not conduct population censuses on that basis. Also, as far as he knew, no association or NGO had reported any racial discrimination.

66. As to the implementation of article 4, the absence of specific legislation could be explained in the same way; but it was likely that, in the interest of conforming to the instruments to which it was a party and the requirements of modernity, Parliament would add the required provisions to current legislation, as had already been done in the draft labour code.

67. The Committee could appreciate from what had already been said that, there was no urgent need to provide for protection against racial discrimination in Morocco. Priorities were set as a function of the country's urgent needs, and if there was one problem which Morocco was trying to resolve without delay, it was the problem of unemployment to which Ms. Sadiq Ali had referred. It was a fact that education for the school and university population in Morocco was no longer in line with the needs of a modern economy, and that an alarming unemployment rate had resulted. But the Government was aware of that situation and seeking to find solutions through dialogue with the various categories of unemployed persons. Hardly a week passed without the minister of a particular economic sector receiving a delegation. In that connection, he pointed out that the most recent Finance Act provided for a 40 per cent increase in budgetary allocations for the social sector as a whole. The new Government was based on three main pillars; one of them was the Ministry of Solidarity, Employment and Vocational Training, which, owing to its social function, would have a more substantial budget.

68. He assured the Committee that, if it so desired, his delegation would ask the Government to adopt the measures requested to achieve conformity with the provisions of the Convention; the matter would be all the simpler because his country did not consider itself to be targeted.

69. Mr. BELMAHI (Morocco), replying to a number of questions about the judiciary and legislation, said first that the proceedings involving Mr. Abraham Serfati were not over from either a legal or a political point of view. Firstly, since the Supreme Court was not competent to rule on his nationality, he must institute new proceedings in the court of first instance. Secondly, as to the political aspects, the Government intended, as stated in its inaugural declaration, to resolve all pending problems, be it the case of Mr. Serfati, the question of missing persons or the settlement of compensation. To that end, an interministerial committee with a very broad composition had already started its work in cooperation with the Human Rights Advisory Council, and the Minister for Human Rights had explained in Parliament that Committee's objectives and working methods.

70. Turning to the Government's effort to bring Moroccan legislation into line with the international conventions and treaties to which Morocco was a party, he said that that was one of the most important projects of the Government, and in particular of the department responsible for human rights. In fact, it was already planned to create a committee to ensure such conformity, because that was a long-term endeavour, in which texts must be drafted, and above all, their implementation had to be monitored. To that end it was important to remain vigilant and to offer regular training for all persons (judges, magistrates, police officers, etc.) whose duty it was to implement the relevant texts.

71. Mr. BENJELLOUN TOUIMI (Morocco) sought to enlighten the Committee on the question of missing persons and on the Western Sahara.

72. When Morocco had decided to look into the matter of missing persons in general, the Human Rights Advisory Council and a number of human rights protection bodies had entered into contact with the Working Group on Enforced or Involuntary Disappearances; thanks in particular to the lists of missing persons which the Working Group had communicated to them, they had succeeded in elucidating many cases. Others, concerning both Sahrawis and non-Sahrawis, were still unresolved, and work was continuing. In cases in which it proved impossible to find any trace of missing persons, Morocco would most likely issue death certificates and compensate the families, just as other countries had done before Morocco with the agreement of the competent bodies of the United Nations. He hoped that the Committee would appreciate how much had been done to reach a consensus on such sensitive questions. It was important to have a consensus so that the Advisory Council carried the necessary weight when it made a recommendation to the King, and it was clear that if the King instructed the competent authorities to implement a recommendation, that would be done effectively.

73. In the Sahrawi context, the question of missing persons was being used for propaganda purposes. If the truth was really being sought, it was not enough to say that there were hundreds of missing persons. Specific information must be given on each of those individuals, at any rate their names - and sometimes their various names - and the tribal sept or sub-sept to which they belonged so as to be able to ascertain whether they had not died, for example, during the skirmishes which took place prior to the ceasefire. Those who had never returned home had not all necessarily "disappeared". The Working Group on Enforced or Involuntary Disappearances had recognized the difficulty of the undertaking in that area, which was all the greater because some NGOs refused to communicate to it information on "their lists". The Moroccan authorities were fully prepared to settle the problem of the missing persons, whether they were Sahrawis or not.

74. He then turned to the more specific problem of the Western Sahara. The question of the referendum was the subject of a United Nations Security Council settlement plan under which, unlike what usually happened in such cases, the referendum was to be supervised by representatives of the United Nations and held under its auspices. The MINURSO (United Nations Mission for the Referendum in Western Sahara) and the Identification Commission were preparing the event. Having made major concessions on the referendum, Morocco had obtained other prerogatives which should not be criticized, because they merely restored the normal balance between the two parties to the agreement. The preparation of the referendum was particularly complex because the participating population had not yet been determined. For propaganda purposes the Polisario had initially estimated the population at between 500,000 and 1 million persons, but following the adoption of the settlement plan, it had revised its figure downwards to 74,000 - namely, the population counted by the Spanish authorities before the transfer of power from Spain to Morocco - when it had became clear that it would be difficult for it to exercise control over too large a population. MINURSO had been given responsibility for implementing the identification criteria provided in the settlement plan to determine who was Sahrawi and could take part in the

referendum. The task was a difficult one, because the Polisario, on various pretexts, was opposed to allowing persons who, under the settlement rules, belonged to a tribal sub-sept included in the census conducted by Spain to be recognized as Sahrawis and take part in the referendum, fearing that they would favour Morocco.

75. Consequently the referendum planned for 1998 would take place somewhat later, because at least nine months were expected to elapse after the identification of the persons authorized to vote; the length of time which the identification process would take did not depend on Morocco, but on the results of ongoing negotiations between the United Nations and the Polisario.

76. The CHAIRMAN thanked the delegation of Morocco for the competent way in which it had replied to some of the questions of the Committee and invited it to resume the dialogue the next morning.

77. The delegation of Morocco withdrew.

The meeting rose at 6.05 p.m.

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of all Forms of
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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-third session

SUMMARY RECORD OF THE 1283rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 7 August 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (continued)

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GE.98-17516 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Twelfth and thirteenth periodic reports of Morocco (CERD/C/298/Add.4; HRI/CORE/1/Add.23) (continued)

1. At the invitation of the Chairman, the members of the Moroccan delegation resumed their places at the Committee table.

2. Mr. BENJELLOUN TOUIMI (Morocco) recalled that members had referred to the lack of demographic information about minority groups in Morocco's reports. Population censuses were designed to collect socio-economic data rather than racial, ethnic or linguistic information. The Moroccan population was such a mixture of different ethnic groups that it was not possible to distinguish the individual groups, geographically or otherwise, and people might not agree with the authorities' classification. There was a danger that distinctions might be created where they had not previously existed. Of course, if discrimination against a certain group of people became a problem, the Moroccan authorities might decide to change its policy.

3. Islam, which was the State religion, advocated tolerance and coexistence and treated people as individuals instead of categorizing them. War propaganda and incitement to hatred on racial, national or religious grounds were forbidden under Moroccan law. No distinction was made between Moroccan citizens on the grounds of their religious convictions, and Moroccans and foreigners alike were free to practise whatever religion they chose.

4. Members had asked about the recent government changes in Morocco. The new Government, formed earlier that year by Mr. El Youssoufi, was a coalition of seven political parties and a number of independents. He would give the new Government's programme to the secretariat for members to consult. One of the ministers, the Minister of the Habous and Islamic Affairs, was appointed by the King, in the latter's capacity as the spiritual leader of the nation. A number of ministers had been kept on from the previous Government. In his opinion, the Minister of Foreign Affairs and the Minister of the Interior had been kept on because of their long experience in the Western Saharan peace process, and the Minister of Justice had been kept on to continue the process of reform of the legal system.

5. Mr. BELMAHI (Morocco), speaking on the reform of the legal system, said that the Government had drawn up a short-term plan of action, to run until the middle of 1999. It was designed, firstly, to improve access to justice, which involved providing advice and assistance to defendants and bringing cases to court more quickly. Secondly, it was designed to improve legal procedures, provide better monitoring of the legal process and motivate judges and other legal personnel to support the reforms. Wide-ranging reforms of the prison system had been introduced. Thirdly, the plan of action was designed to modernize and computerize the courts at both national and local level. The first courts to benefit were the Supreme Court, the Court of Appeal and a major court of first instance in Casablanca. The administrative courts which had been in existence since 1991 had proved most valuable: for example, an

official of the Ministry of Justice had successfully appealed against his unfair dismissal at the administrative court of Rabat. New drafts of the Criminal Code and the Code of Criminal Procedure would shortly be submitted to Parliament.

6. Describing the reform of the prison system, he said that two new prisons were being built, and existing prisons were being upgraded. Efforts were being made to ensure a better quality of life for prisoners, particularly in respect of food and medical care, and to reduce overcrowding. Prisoners were allowed to maintain contacts with their families and with the outside world. Education was provided, from elementary literacy lessons to university-level studies. He would send statistics to the secretariat, which members could consult. Vocational training was provided in fields such as plumbing, sewing and information technology. The prison service had taken over five farms for the purposes of vocational training, of which two were currently in operation. A draft law on the "humanization" of the prison system, shortly to be submitted to Parliament, had been drawn up in conformity with the Standard Minimum Rules for the Treatment of Prisoners. A guide to the Standard Minimum Rules had been produced in easily readable language for the use of prisoners.

7. The training of prison staff was based on Morocco's international human rights commitments. Human rights teaching was provided by the Faculty of Educational Science of the University of Rabat. France and Spain had provided valuable assistance in training prison staff, particularly in health matters.

8. Every effort was made to strengthen prisoners' links with the outside world. Non-governmental organizations (NGOs) were free to visit prisons at any time. In December 1997, the Moroccan Organization for Human Rights had been allowed to carry out its own autopsies on three dead prisoners, in parallel with the official autopsy. The official pathologist had found that all three prisoners had died of natural causes. The pathologist employed by the Moroccan Organization for Human Rights had found that two prisoners had died of natural causes, but that neglect might have played a part in the death of the third. The case had been widely publicized in the Moroccan press.

9. The prison service maintained close links with the Moroccan Bar Association, in order to bring about constant improvements in the prison system. It also had a close relationship with the press. Journalists could visit prisons freely, and their reports were not subject to censorship, providing that the privacy of the prisoners was respected. Swedish and Danish television companies had made programmes about the prison system. A Dutch member of the European Parliament and the Secretary-General of Amnesty International had also visited prisons in Morocco.

10. Mr. BENJELLOUN TOUIMI (Morocco) said that several members had asked about the activities of the Human Rights Advisory Council and its standing with the Government. He had a long report listing the members of the Council and the legislation which it had recommended to the Government, which he would provide to the secretariat.

11. Mr. de Gouttes had asked about the status of the Minister for Human Rights. The Minister had been a minister-delegate, appointed by the Prime Minister, and when he had left the Government, his duties had been

taken over by the Minister of Justice until the elections in early 1988. The new Minister for Human Rights, Mr. Aoujar, was a minister in his own right and a noted human rights activist, and had been the founder of the Moroccan Organization for Human Rights.

12. Mr. BELMAHI (Morocco) said that the functions of the newly separate Ministry of Human Rights were wide-ranging. It reviewed the country's legislation to assess their conformity with the international human rights instruments to which Morocco was a party. It supervised relations with national and international NGOs in the human rights field, under the new Government's policy of openness to such organizations and of involving all elements of civil society in the promotion and protection of human rights; the Government had, for instance, enlisted the help of NGOs in the preparation of its periodic reports to the various treaty bodies, and had recently included a new provision in its limited budget for small subsidies to some of the major NGOs devoted to human rights in general and to the rights of women and of the child in particular. The Ministry also dealt with complaints of human rights violations forwarded to it from all other ministries and from individuals; it did so on a case-by-case basis, often helping complainants to institute court proceedings or directing them to a more appropriate government department, and it continued to monitor the progress of all complaints. Given the huge caseload - anywhere from 12 to 70 complaints were received weekly - it had been decided to establish regional delegations to deal with complaints, starting with three in the north, south and centre of the country, with delegations eventually in all the capitals of the 16 regions.

13. Regarding the harmonization of Moroccan law with international treaties, the Ministry had carefully reviewed the many human rights treaties to which Morocco was a party, including the Convention, and was in the process of going over all the relevant Moroccan legislative and regulatory texts. It had thus far reviewed about 1,600 texts, from 1912 to 1990, and where it had found a lack of conformity it had begun to revise the laws and regulations. The Ministry had chosen national experts who would continue to monitor the conformity of its legislation with the Convention and other international instruments, and would itself monitor the work of the officials responsible for implementing the laws, in order to bring the de facto and de jure situations into line with each other.

14. Mr. BENJELLOUN TOUIMI (Morocco), speaking to the question of the Berbers, said that although Arabic had been made the official language of the country for the sake of social cohesion, the Government recognized the right of the different ethnic groups to their own collective and cultural heritage. The Berbers had been the original population of Morocco, before the Arab invasion, and their language and heritage therefore had pride of place in Morocco. The Berber culture was extremely rich and diversified, consisting as it did of many different ethnic groups in the various areas of the country, each with its own particular traditions and characteristics. The Government would soon be establishing a Centre for Berber Studies and Culture, and in the meantime had set up very active regional Berber and other cultural associations. All the Berber groups had joined in a common effort to devise one Berber language from the many distinct dialects, starting with the problem of the transcription of the language. Perhaps other countries of the Maghreb were more advanced along those lines, but the Moroccan Government, with the

very limited funds available for culture in general, was seeking to support the Berber communities and integrate the wealth of their traditions into the spiritual heritage of the entire country.

15. To respond to a concern expressed by Mrs. Sadiq Ali, he said that the new Finance Law, the text of which had been circulated to members, had made it a priority to ensure a safety net for all the country's ethnic communities, quintupling the allocation in that regard.

16. Mr. BELMAHI (Morocco) said, regarding the dissemination of information about Berbers, that on Moroccan television there were daily news broadcasts in three of the main Berber dialects; and that Berber music, which was as diverse as the languages, was featured prominently on many of the regional radio stations and was the most popular music in the sale of recordings. There were also 11 authorized Berber newspapers and publications, representing all regions.

17. The Ministry of Culture had itself taken a number of steps in that regard: it had drafted a bill for submission to Parliament establishing a Centre for Study and Research in Tamazight, one of the Berber dialects; it planned to open museums of Berber art and culture in the various regions; and it had recently met with all associations active in the field to plan joint action to implement the Government's policy on the promotion of Berber language and culture. Universities in Morocco, of course, had a rich store of research materials on Berber and other languages.

18. Mr. BENJELLOUN TOUIMI (Morocco), underscoring the enormous degree of ethnic intermingling in Morocco, reiterated how difficult it was for the Government to determine the ethnic composition of its population with any accuracy - for instance, an ancient Jewish Berber tribe living in the southern Atlas mountains had been discovered for the first time only in the 1950s. Indeed, it was perhaps not advisable for it to try to undertake a strict ethnic classification of such a mixed population. The Government would naturally, however, adapt its laws to the provisions of the Convention on the matter, to ensure that there was no discrimination against any ethnic group.

19. Regarding education in human rights, he circulated to members of the Committee a document listing and giving a timetable for the many educational activities being planned by the Government. The Centre for the Study of Human Rights which it was planning to establish with the assistance of the United Nations High Commissioner for Human Rights was expected to have a regional impact in the Maghreb. He also drew attention to a provisional document available for reference, giving the Government's short-term programme of action, organized by ministry, indicating what the Administration was doing to further the welfare of its people.

20. The CHAIRMAN, thanking the delegation for its very interesting replies, said that he remained unconvinced, however, by the argument made concerning article 4 of the Convention, an article which had been very clearly drafted and had to be applied. Although the delegation maintained that racial discrimination was not a problem in its society, there was no provision in the Criminal Code for dealing with any crime of racial discrimination committed, for instance, by an alien. Actually, no country in the world could claim

absolutely that it was immune from problems of racial discrimination and human rights violations. He asked the delegation to convey the Committee's strong and unanimous position on the matter and to try to convince the Government to amend the Criminal Code.

21. Mr. RECHETOV asked for an explanation of the term "authorized" used by Mr. Belmahi in respect of Berber newspapers. Did all publications have to be officially authorized, and if so, by whom and in what manner?

22. Mr. YUTZIS asked the delegation to comment on a recent Moroccan law mandating the giving of Arab names to children, and thus presumably prohibiting the use of Berber names, as reported by an international Berber non-governmental organization.

23. Mr. de GOUTTES asked whether the Government planned to expand its publicizing and broad distribution of its own periodic reports and the Committee's concluding observations thereon.

24. Mr. GARVALOV, referring to paragraphs 50 and 54 of the report (CERD/C/298/Add.4), said that, despite the Government's commendable efforts against racial discrimination, it was questionable whether any State could say that it had no problems in that area. Article 4 of the Convention was, in the Committee's understanding, mandatory, and required legislation on the matter, regardless of whether or not racial discrimination occurred. Also, the formulation in paragraph 59 of the report to the effect that the dissemination of ideas based on racial superiority and hatred "may be punishable under law" was very weak, and should state rather that it "shall be punishable".

25. He would welcome more information on the Berbers and whether there was any distinction drawn between them, the Arabs and groups of other ethnic origin in Morocco. Although the delegation claimed that the different races and ethnic groups were now intermingled, it had, in its explanation of the founding of Moroccan society referred variously to the Berbers, the Arabs and others. Perhaps nowadays there was no longer any distinction, but clearly in the past there had been. The Committee had been informed that the Government census was not carried out on the basis of ethnic or racial origin, but according to different criteria. Yet paragraph 52 of the report referred to the special status conferred on the Jewish community. Was that not tantamount to a distinction? Moreover, if groups of different religious denominations were recognized, then why was there no mention of the Christians? Surely there must be more Christians than Jews in Morocco? Even if the latter were foreigners, their rights should also be protected under the Convention.

26. The CHAIRMAN said that, on the basis of his experience of Algeria, there were to his knowledge very few Christians in North Africa, and certainly far more Jews.

27. Mr. BENJELLOUN TOUIMI (Morocco), replying to Mr. Rechetov's question concerning Berber publications, said that the delegation's use of the term "authorized" in its earlier replies was somewhat misleading. In accordance with Moroccan legislation regulating the press, all publications must be

officially registered. That procedure applied to publications in all languages, including the Berber language. There was no censorship of the Berber press.

28. On the subject of Moroccan names, the information quoted by Mr. Yutzis was not entirely accurate. The only restriction on the choice of names was that they must be authentically Moroccan. Berber names, which had their roots in Moroccan history and culture, could certainly be used. In fact, Berber names were extremely popular, possibly because they were short and convenient to use on credit cards and the like. Books of Berber names had even been published. The aim of the restrictions was to discourage the use of foreign names, particularly those of Western origin.

29. As far as the dissemination of information was concerned, it was worth noting that representatives of the Moroccan press were following the delegation's dialogue with the Committee closely and had already passed on the information to press agencies in Morocco, reaching out to more than 400 publications. In addition, the Government would take steps to ensure that more specialist reviews and associations had access to the report and the Committee's comments on it.

30. Qualifying earlier remarks on racial discrimination, he pointed out that what had actually been said was that no cases of racial discrimination had thus far been recorded.

31. The specific question of the Berbers in Morocco required further clarification. No one could deny the different ethnic origins of the country's population, but apart possibly from some of the more remote mountainous regions where there had been no intermingling of the different ethnic groups, it was difficult nowadays to distinguish Berbers from Arabs. It was rather like asking how many Celts lived in France or how many Anglo-Saxons there were in England. Although ethnologists, geographers and historians had popularized the term "Berber" to describe those population groups found on the territory between the Atlantic and Egypt, and the Mediterranean and Niger, who spoke non-Arab dialects such as Tachelhit, Tarifhit and Tamazight, politically speaking such a distinction was meaningless in present-day Morocco, and all Moroccans shared a common Arab and Berber cultural heritage. Morocco was in fact as much an Arabized Berber nation as it was a Berberized Arab nation. While all schoolchildren were still taught that the Berbers were the first inhabitants of North Africa, it should be noted that the earliest Arab invasion of the Maghreb dated back to the seventh century and thereafter the territory had been successively ruled over by different dynasties of Berber and Arab extraction, during which time the Berbers had been "Arabized" and the Arabs had been "Berberized", not by force but by inclination. By way of example it was converted Berbers that had been largely responsible for the spread of Islam in Morocco. The consequent melting pot of races and cultures over the centuries had resulted in the Moorish people specific to Morocco, generally defined as Arabo-Berber. By the same token it was difficult to ascertain whether some Moroccans had originally been Jewish or Muslim, since many had family names common to both those religions, with a slight difference in spelling.

32. The Government of Morocco would pay heed to the Committee's comments concerning the need for appropriate legislation so as to be in conformity with article 4 of the Convention. The situation would be remedied with the future reform of the Criminal Code. However, he could not promise that the Government could produce the type of demographic information sought by the Committee, and conduct a census which created artificial ethnic and racial divisions.

33. Mr. de GOUTTES (Country Rapporteur) said that the dialogue with the Moroccan delegation testified to the spirit of openness of Morocco's new Government, not to mention its attention to human rights issues, probably owing to the fact that several Cabinet ministers were former human rights activists. The Committee had certainly enjoyed a much better dialogue with the delegation than in the past and the oral replies had helped iron out a number of problems concerning information contained in the report. The delegation had provided comprehensive and up-to-date information on political, judicial and prison reform, the situation in the Western Sahara, measures to promote Berber language and culture and efforts towards better liaison with NGOs.

34. Nonetheless, some problems and differences of opinion remained. The delegation's explanation of why the census did not include any ethnic breakdown of the population had failed to satisfy the Committee, particularly since it was not in line with General Recommendation IV or the Committee's guidelines on the preparation of reports (para. 8).

35. Similarly, Morocco was urged to bring its criminal legislation into line with the provisions of article 4. The Committee could not accept the argument that since there were no cases of racial discrimination, such legislation was not necessary, although it was encouraged by the news that efforts would be made to harmonize the legislation in the forthcoming reform of the Criminal Code.

36. Another area in which improvements could be made was that of sentencing and convictions. He stressed that the possibility for victims to seek compensation for wrongful convictions was a touchstone of the Convention.

37. Lastly, the next periodic report should contain more ample information on economic and social indicators and possible discrimination against certain groups such as Blacks and nomads. The Committee was optimistic that such improvements would be made in the future and described in detail in the next report.

38. The CHAIRMAN expressed appreciation to the delegation for an extremely interesting exchange of views, which the Committee hoped to resume in future.

39. The delegation of Morocco withdrew.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 9) (continued) (E/CN.4/1998/77; E/CN.4/1998/79)

40. Mr. BANTON, referring to the report of the Secretary-General on racism, racial discrimination, xenophobia and related intolerance (E/CN.4/1998/77),

drew attention to part IV, section B entitled "Department of Public Information". Committee members who frequently complained that the Department of Public Information (DPI) made little effort to publicize the Committee's work on racial discrimination would no doubt be interested in the 20 or so paragraphs which DPI had produced on the subject. According to paragraph 18 of section B, the Department was currently preparing a background article on racism and its consequences. Perhaps the Committee might wish to inform DPI that, while it welcomed its efforts, an article stressing the positive achievements in implementing the Convention might be more useful.

41. Paragraph 3 of part IV, section C of the report referred to a meeting in 1996 which he, as the Chairman of the Committee at that time, had attended. He was, therefore, well aware that the statement that "those participants did not consider that the International Convention on the Elimination of All Forms of Racial Discrimination gave any scope to the Committee to pay attention to issues confronting women from racial minorities" was both untrue and an inaccurate account of what had been discussed at the meeting.

42. During consideration of the first communication the Committee had ever dealt with under article 14 of the Convention (1/1984), on the complaint submitted by Mrs. Yilmaz-Dogan, it had been clear that the contract of employment might have been terminated because she had been pregnant, in which case it had nothing to do with the Committee's mandate, or that there might have been a racial element, in which case it came within the competence of the Committee. The Committee had proceeded accordingly. Following that case, he had submitted a paper pointing out that women were sometimes doubly disadvantaged by their sex and their ethnic origin and that it was up to the Committee only to deal with the question of discrimination against women on the basis of their ethnic or racial origin. A copy of the relevant summary record should be sent to the Office of the United Nations Special Adviser on Gender Issues and Advancement of Women and its attention drawn to the error so that aspersions on the work of the Committee could not be cast again.

43. The second report before the Committee was by the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance (E/CN.4/1998/79). Following the fifty-first session, he had, as instructed by the Committee, sent a letter to the Special Rapporteur expressing the Committee's regret that he had not used the information it had provided on issues that were of relevance to his mandate. No reply had been received. Paragraph 26 of the report referred to the Committee's annual report but did not give any details of or even mention the work or concluding observations of the Committee.

44. Mr. van BOVEN said that he was pleased that Mr. Banton had clearly stated for the record that the remarks in paragraph 3 of part IV, section C, of the report of the Secretary-General (E/CN.4/1998/77) did not accurately reflect the position put forward at the meeting. The Committee was well aware of the fact that women sometimes faced discrimination on grounds of gender and racial or ethnic origin, of the difficulties involved in separating the two issues in many cases, and above all of its mandate under the Convention.

45. It was regrettable that material provided to the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related

Intolerance and approaches made to him did not seem to have elicited any form of response, and that there was a clear lack of coordination on issues that were related and complementary. It would be interesting to see if the inter-branch Racism Project Team, which had been set up in March 1998, would improve the situation.

46. The CHAIRMAN proposed that Mr. Banton should be given the responsibility of liaising with the Commission on Human Rights.

47. It was so decided.

48. Mr. GARVALOV said that paragraph 3 of part IV, section C of the report of the Secretary-General was an insult to the work of the Committee and was totally unacceptable. In the course of considering reports of States parties, the Committee had looked at women's issues time and again, in the context of the Convention.

49. It was a mystery why there was so little cooperation between the Special Rapporteur and the Committee when much of his work concerned issues already dealt with extremely thoroughly by the Committee and their mandates so clearly overlapped. That was clear from the contents page of his report (E/CN.4/1998/79) which, inter alia, had sections on discrimination against Blacks, the Roma, Gypsies or travellers, Arabs and Muslims and the problem of incitement to racial hatred over the Internet, all issues frequently discussed by the Committee when considering reports of States parties. The Committee should appeal to the Commission on Human Rights to ensure close contact between the Special Rapporteur and the Committee, particularly in view of the forthcoming World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance.

50. The CHAIRMAN said that one of the main problems was that the Committee no longer had an intermediary to whom it could address its concerns and comments and thus pre-empt the kind of mistake found in the report of the Secretary-General (E/CN.4/1998/77). The problem of the lack of contact with and between the different parts of the Secretariat could be raised with the High Commissioner for Human Rights.

51. Mrs. SADIQ ALI said that, as far as she remembered, the Committee had been told that it should not raise women's issues.

52. The CHAIRMAN said that when the question was one of discrimination against women on racial or ethnic grounds, the Committee was clearly competent to raise the matter with States parties.

53. Ms. McDOUGALL said that she felt that a general recommendation on women's issues in the context of the Convention would help guide the work of the Committee and be useful for States parties. She would be happy to draft such a recommendation, together with a male colleague on the Committee.

54. The CHAIRMAN suggested that a letter might be more appropriate.

55. Ms. McDOUGALL said that a letter should be written in addition to the general recommendation.

56. Mr. SHAHI said that a general recommendation would help dispel any misconceptions about the work of the Committee. It was unfortunate that the Special Rapporteur paid little attention to the work of the Committee. However, unlike the Special Rapporteur's thematic studies on topics, the Committee dealt with issues of common interest in the context of reports of States parties, making it difficult for the Special Rapporteur to sift through each and every report to find out what the Committee had said.

57. Mr. van BOVEN said that he hoped that the draft general recommendation would be ready for the Committee to discuss and adopt at the fifty-fourth session.

58. Mr. VALENCIA RODRIGUEZ said that the gender perspective had permeated the work of the United Nations and its various agencies and bodies to the point that if it was not openly referred to in a body's guidelines or work it was assumed that that particular agency or body was opposed to its promotion. He had heard comments, off the record, even from members of the Third Committee of the General Assembly, to the effect that, by omission, the Committee was not in favour of promoting the gender perspective. A general recommendation would go some way toward dispelling that notion.

59. The CHAIRMAN said that he took it that the Committee was in favour of a general recommendation on women's issues in the context of the Convention, to be drafted by Ms. McDougall and discussed at the fifty-fourth session.

60. It was so agreed.

61. Mr. GARVALOV observed that the issues he had mentioned that were dealt with by the Special Rapporteur in his report were not the subject of thematic studies. The Special Rapporteur was merely setting out "the most salient facts" that had come to his notice. However, there was an error in paragraph 46 of the report where he equated the demonstration of 2,000 Roma with a protest against discriminatory practices. The demonstration in question, on 4 February 1997, had been attended by many Bulgarians to try and force the Government to resign. The increase in the price of bread had affected everyone in the country, not just the Roma.

62. Mr. BANTON suggested that the Committee should address a letter regarding the error in the Secretary-General's report to the Department of Public Information and to the United Nations Special Adviser on Gender Issues and Advancement of Women.

63. The CHAIRMAN proposed that Mr. Banton should draft and send the letters.

64. It was so decided.

The meeting rose at 1 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-third session

SUMMARY RECORD OF THE 1284th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 7 August 1998, at 3 p.m.

Chairman: Mr. DIACONU
Later: Mr. ABOUL-NASR

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Examination of the situation in Bosnia and Herzegovina

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GE.98-17543 (E)

The meeting was called to order at 3.10 p.m.

PREVENTION OF RACIAL DISCRIMINATION: EARLY WARNING MEASURES AND URGENT ACTI PROCEDURES (agenda item 3)

Examination of the situation in Bosnia and Herzegovina (HRI/CORE/1/Add.89)

1. At the invitation of the Chairman, Mr. Jerkic, Mr. Dutina and Ms. Palavric (Bosnia and Herzegovina) took places at the Committee table.

2. Mr. JERKIC (Bosnia and Herzegovina) said that his country was slowly recovering from the tragic events of the years 1992 to 1995 and was bravely tackling the complex task of constructing a modern European State. Bosnia a Herzegovina had been the scene of the worst imaginable violations of human rights, most of them inspired by religious and ethnic considerations. The memory of those events had to be kept alive in order to ensure that such a scenario did not recur; but at the same time the country did not wish to remain a hostage to its past, and all the citizens aspired to the creation o a State the salient features of which would be the rule of law, parliamentar democracy and a market economy. The General Framework Agreement for Peace, signed two and a half years ago, had not yet been fully implemented, but progress was being made daily. To that end the proper functioning of the common institutions, at the level of the three different entities (Serb, Cro and Bosniak) as well as at the national level, was essential, and the authorities were endeavouring to build a society in which those three ethnic groups could live harmoniously side by side.

3. The international instruments ratified by Bosnia and Herzegovina forme an integral part of domestic law, and the Constitution offered substantial guarantees for the protection of human rights. At the national level and at that of each entity, ombudsmen had been appointed; the only difficulty remaining was that of ensuring that the decisions they took were implemented

4. Cooperation with the International Criminal Tribunal for the former Yugoslavia was improving, although there was still room for progress regardi the bringing of accused persons before the tribunal for trial.

5. The numbers of persons who had disappeared during the hostilities was estimated at 20,000. It was easy to imagine the grief of families who had n idea of the fate which had befallen their relatives and - from the purely administrative viewpoint - could not claim any compensation until the bodies were found. The International Commission on Missing Persons in the former Yugoslavia was to be congratulated on its efforts, and the active cooperatio of the authorities of the three entities in the exhumation of victims since March 1998 was to be welcomed. The latter process, like that of identification of bodies, was complex and costly, and the financial support the international community was more than ever essential.

6. Freedom of movement within the country had been greatly facilitated by the harmonization of registration plates on all vehicles and the recent introduction of a single passport for all citizens, irrespective of ethnic origin.

7. 1998 had been proclaimed Return of Refugees year in Bosnia and Herzegovina. The process of rehousing was a complex one, particularly in the big cities, since it involved resettling the original occupants in their homes and finding other accommodation for the persons who had temporarily occupied those dwellings during the war. A very important section of the General Framework Agreement for Peace (Peace Agreement) related to the return of refugees.

8. The new Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia had recently visited Bosnia and Herzegovina, where he had reminded everyone of the need to work unremittingly to ensure the primacy of law and the smooth functioning of the machinery of State.

9. In conclusion, Mr. Jerkic referred to two approaching events of great importance for the country: the strengthening of the relations between Bosnia and Herzegovina and the institutions of the European Union; and the general elections (presidential and parliamentary) which would take place on 12 and 13 September 1998 under the auspices of the Organization for Security and Cooperation in Europe (OSCE). In conclusion, he reaffirmed his conviction that every day Bosnia and Herzegovina, with the invaluable aid of the international community, was taking a new and decisive step towards the establishment of a modern democratic State.

10. Mr. NOBEL (Country Rapporteur for Bosnia and Herzegovina) began by recalling that during its history Bosnia and Herzegovina had been dominated by four great empires - the Roman empire, the Byzantine empire, the Ottoman empire and the Habsbourg monarchy, all of which contained substantial multicultural and multi-ethnic elements. Ethnic enclaves, in which relative peace reigned, developed in large numbers; but problems began to emerge when the nation-State became the prevailing form of organization in Europe, in particular during the 19th century. The multicultural empires were superseded by monocultural nation-States, and later, in the worst of cases, by ethnically pure States. This led the oppressed and threatened ethnic minorites to resort to arms and violence.

11. In Bosnia and Herzegovina ignorance of the past - and its manipulation by unscrupulous historians - had also helped to stoke up into ethnic hatred, for it was impossible to draw lessons from the past.

12. At the beginning of the 1990s (i.e. before the war) the Republic of Bosnia and Herzegovina had approximately 4.5 million inhabitants (Serbs 32 per cent, Croats 18 per cent and Muslims 43 per cent), together with members of minorities from neighbouring countries and asylum seekers from non-aligned countries.

13. The population statistics had inevitably been affected by the war, by the end of which 1.3 million citizens of the former Yugoslavia had fled abroad and another 600,000 had been displaced within their own country. Previously, however, there had been no serious racial or linguistic differences between the different ethnic communities making up the former Federative Socialist Republic of Yugoslavia, the majority of whom were Southern Slavs speaking Serbo-Croat. The current differences were based rather on religious, cultural

and historical considerations; the Serbs were Orthodox Christians and used the Cyrillic alphabet, whereas the Croats were Roman Catholics and used the Latin alphabet, as did the Bosniaks, who were Muslims. However, a long-standing animosity existed between Serbs and Croats. During his period of office President Tito had attempted to reduce the growing political tensions and antagonisms between Serbs and Croats by creating in Bosnia and Herzegovina a Muslim political entity invested with special powers and a system in which the principal federal offices were assigned in rotation to the different ethnic communities. The inhabitants of Bosnia and Herzegovina had remained greatly attached to that system, even during the 1990s.

14. Quoting from the 1998 annual report of Amnesty International: Mr. Nobel stated that during 1997 new, flagrant and large-scale violations of human rights had occurred. In particular, over a million refugees and displaced persons had been unable to return to their homes; many individuals had been held in detention without trial or charge on account of their nationality; and the trials of scores of others, who were accused of violations of human rights or belonged to minorities, had been unfair. In addition, 19,000 individuals - including a large number of individuals who had been reported as having disappeared, whereas they had been placed in detention by the police and the armed forces - had still not been found; and members of minorities were being subjected to attacks and ill-treatment with official acquiescence. Moreover, scores of persons suspected of war crimes were still at large.

15. The implementation of the Peace Agreement was laboriously going ahead, but without reducing in the slightest the animosity existing between the different communities, and in particular between the zones controlled by the Bosniak and Croat authorities respectively, this notwithstanding the agreement on certain matters concluded between the three members of the presidency of Bosnia and Herzegovina chaired by Mr. Aliya Izetbegoviç. However, that agreement did not touch on the nationality question. The authorities of all the parties were still paying little heed to the decisions of the civilian organizations such as the OSCE and the United Nations International Police Task Force, especially with regard to human rights and the provisions of the Peace Agreement.

16. The Helsinki Committee, which had taken premises in the Republika Srpska, had reported on the paralysing opposition between the two mutually hostile wings of the Serb Democratic Party (the Banja Luka and Pale factions), which was preventing any attempt to deal with the flagrant and continuous violations of human rights, and on the lack of concern of the authorities at the particularly vulnerable situations of returnees. In some sectors living conditions were wretched and families were totally indigent. Clans organized and controlled by influential politicans were still carrying on illegal and criminal activities. According to the Committee's own statistics, it had devoted by far the greater part of its legal aid services to victims of violations of property rights (70 per cent) and to deserters (13 per cent). In that connection, Mr. Nobel stated that the provisions of annex 7 of the Dayton Agreement, concerning the granting of amnesty to deserters who had not committed any serious violations of international humanitarian law, were apparently not being applied by the authorities of the Republika Srpska and of the Federative Republic of Yugoslavia. In that connection he recalled draft resolution 1998/79 of the Commission on Human Rights, which called upon the

authorities mentioned to amend their legislation immediately so as to grant amnesty to persons who had avoided conscription or deserted.

17. Mr. Nobel considered the situation of the 50 to 60,000 Roms in Bosnia and Herzegovina particularly disquieting; according to a reliable observer, they had completely disappeared from the country since the war.

18. As regards crime, Amnesty International had reported that in 1997, 54 of the 73 persons indicted by the International Criminal Tribunal were in hiding in the Republika Srpska, where the nationalist political parties had won most of the elections organized in 1997 under OSCE supervision. However, political disagreements were such that only a few assemblies had been able to function, and certain elected assembly members had been unable to take up their duties for fear of being attacked or arrested. However, a new Government under the leadership of Mr. Milovad Dodiç had come into power in January 1998 following the election of the members of the National Assembly, notwithstanding the obstructive tactics of the leaders of the Pale faction.

19. According to the representative of the HCR and a number of other international organizations, that new development could prove to be a turning-point in the generalized implementation of the Peace Agreement, which might be effected without giving rise to a territorial split within the Republika Srpska, where a general election would be held in September 1998. Similarly, according to an internal HCR document, the attitude of municipal authorities in Bosnia and Herzegovina, which were becoming more favourably disposed to the return of the minority groups, and the substantial increase in the number of intercommunity evaluation visits, whether involving one ethnic group or more than one, were particularly positive developments. However, the champions of ethnic separatism were continuing to oppose the return of refugees and the right of refugees to remain in the country by attacking repatriated individuals and burning their houses down and by demonstrating against the return of displaced persons.

20. The Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia had stated in her report (E/CN.4/1998/63) that the principal challenge in the territory would be that of facilitating the return of refugees and displaced persons in order to reverse the effects of the war and of ethnic cleansing.

21. In that field the priority activities of the HCR would relate primarily to bringing refugees and displaced persons back to their communities of origin in Bosnia and Herzegovina, at the same time continuing and developing a "open cities" policy. Ten cities had already subscribed to that policy with the cooperation of the international community. Mr. Nobel asked whether the Bosnia and Herzegovina delegation had additional information on that policy.

22. The HCR estimated that in 1998, 220,000 members of minorities would be repatriated and that 600,000 persons already repatriated (55 per cent of them women and 30 per cent children, persons suffering from serious injury or sickness and aged persons) were dependent on it. It also estimated that there were some 40,000 Serb refugees from Croatia in the Republika Srpska; most of them wished to return voluntarily to Croatia if the Government of that country allowed them to do so, while others wished to return to various regions in

Bosnia and Herzegovina. The OSCE, for its part, had reported that Croat or Bosniak individuals repatriated to their communities of origin frequently received little or no protection from the police or other authorities against attacks against their persons or their possessions. Those difficulties raised thorny and complicated questions concerning property rights. The High Representative of the international community in Bosnia and Herzegovina was cooperating with the office of the federal ombudsman in the search for a means of replacing the wartime legislation on abandoned property by a claims procedure under which the time allowed for the submission of claims would be increased from 6 to 12 months. However, their efforts occasionally encountered systematic obstruction by the administration and by certain de facto municipal authorities established during the war. Another delaying factor was the slow pace at which multi-ethnic police forces were being created.

23. In that connection Mr. Nobel recalled that the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia had recommended the strengthening of the police forces in line with international standards, laying particular emphasis on respect for human rights; the reform of the judiciary; the preparation of periodic reports on human rights, including in-depth investigation of the enjoyment of economic, social and cultural rights; and greater emphasis on civil society and the work of non-governmental organizations. He personally considered that in addition the independent ombudsman should be protected from political pressures; that the falsifications of history and elements fostering ethnic hatred and contempt should all be removed from school books; and that it should be recognized that international support for the defence of humanitarian values would remain necessary for a long time.

24. Those objectives presupposed a number of specific measures. In particular, efforts had to be made not only to instruct members of the police forces in the skills of their profession but also to teach them to respect human rights; in the latter regard they should be subject to supervision by the higher police authorities and the judiciary. The reform of the machinery of justice would require administrative assistance on a very substantial scale directed towards modernizing the functioning of the judicial system.

25. According to information received from the OSCE, a draft law concerning associations and foundations, which should logically lead to recognition of NGOs, was under consideration. However, as legal texts which conferred legal existence on associations on the one hand and restricted their freedom of expression on the other were not infrequent, that information should be welcomed, but with caution, and the State party should be urged not to take away with one hand what it was giving with the other. Normally, where freedom of expression and association were duly respected, NGOs did not require protection in the form of specific legislative provisions.

26. Vigilance was also necessary with regard to the measures to be taken to put an end to hate propaganda. Such propaganda was blatant in the television programmes of the Republika Srpska and were still encountered in school books. It was to be hoped that the agreement between the Ministers of Eduction of the Republika Srpska and the Federation to expunge from school books all elements fostering national or racial hatred would be fully implemented.

27. After welcoming the agreements on passports, the common currency and the harmonization of registration plates on cars, Mr. Nobel stated that in his view if there was any single issue on which the Committee had a duty to express its views forthrightly and unambiguously, that issue was the need to maintain an international presence in Bosnia and Herzegovina until such time as civil peace was firmly established.

28. Mr. Aboul-Nasr took the Chair.

29. The CHAIRMAN began by apologizing to the Bosnia and Herzegovina delegation for being absent at the beginning of the delegation's opening statement. He went on to raise, in his capacity as a Committee member, a question the importance of which seemed to him enhanced by the fact that it was having a damaging effect on relations between two countries - Germany and the United States - which had no connection with the conflict. The United States authorities had criticized the German authorities for having overhastily returned an excessively large number of refugees to their home country under particularly unsatisfactory conditions. Germany considered that it had no lessons to receive from the United States. Mr. Aboul-Nasr asked the Bosnia and Herzegovina delegation to give the Committee detailed information on the conditions in which those refugees were returning to enable the Committee to ascertain whether the problem was in fact an insoluble one.

30. Mr. de GOUTTES recalled that in decision 3 (52), adopted at its previous session, the Committee had expressed regret at the absence of a delegation from Bosnia and Herzegovina when it studied the situation in that State party. He welcomed the presence of a delegation on the occasion of the consideration of the report scheduled for the current session; this meant that dialogue could begin.

31. The experts had received information from a variety of sources, including a note from the Office of the High Commissioner for Refugees entitled "Confidential comments" (distributed without a symbol and in English only), which called for explanations from the delegation. One of the principal current issues in Bosnia and Herzegovina was that of the return of refugees and displaced persons, who were estimated to number over a million; they were finding difficulty in recovering their property and were meeting with hostility from the people who had installed themselves in their places. Clearly, the implementation of annex VII of the Dayton Agreement was running into difficulties. According to Amnesty International, the attitudes of both national authorities and the international community were hindering implementation; on the one hand, the authorities were not taking the necessary measures to improve the conditions under which the refugees were returning, while on the other, the host countries were urging them to return, stating that the necessary conditions had been met. That situation was liable to give rise to conditions which would make the consequences of those large-scale displacements concrete and lasting.

32. Another outstanding problem was that of missing persons. In paragraph 26 of her report on the situation of human rights in the territory of the former Yugoslavia (E/CN.4/1998/63) Ms. Rehn, Special Rapporteur of the Commission on Human Rights, drew attention to the distress of families who

were unable to find out what had happened to their loved ones and, as was their right, to dispose of the mortal remains.

33. In paragraphs 22 and 23 of her report Ms. Rehn had referred to another outstanding problem, namely the reform and restructuring of the police and the judicial system. The reform of the police force was essential to make it a genuinely democratic force at the service of the citizens; the judicial system equally needed to be reformed to ensure that judges were genuinely impartial and independent. Individuals suspected of exactions during the hostilities and members of minorities should no longer be subjected to unfair trials of the kind described by Amnesty International; nor should minority populations be subjected to attacks with the tacit agreement of the authorities or, as described in paragraph 24 of Ms. Rehn's report, to discrimination in the areas of housing, employment and education.

34. Mr. de Gouttes concluded his statement with a reference to cooperation between Bosnia and Herzegovina and the International Criminal Tribunal, which in his view was less than satisfactory. As Ms. Rehn stated in paragraph 27 of her report, the national authorities were responsible for arresting all criminals who did not surrender.

35. Mr. van BOVEN considered that attention should be forcibly drawn once again to certain aspects of the situation, even though they had already been mentioned by the Country Rapporteur and described in the confidential note of the Office of the High Commissioner for Refugees, by Ms. Rehn or by her successor. As Mr. Nobel had rightly pointed out, all that the Committee could do was express its views. That was precisely what it should do. It should convey those views not only to the country the situation in which it was studying but also, where appropriate, to the other human rights bodies to draw their attention to problems for which it had a mandate to seek solutions.

36. He turned to the subject of ethnic cleansing, which was possibly the most important of those problems. Clearly, the implementation of annex VII of the Dayton Agreement was far from satisfactory. The programme had fallen far behind schedule. This had facilitated the occupation of particular zones by members of a particular ethnic community - a factor which prevented the former occupants of the zone from finding accommodation. Notwithstanding that situation, the host countries were ruthlessly sending the refugees back. The situation was well described in paragraph 6 of the updating document produced by the Office of the United Nations High Commissioner for Refugees on the situation in Bosnia and Herzegovina. Mr. van Boven stressed the low level of protection extended to returnees, both in law (through necessary legislation) or in practice (on the part of law-enforcement officials). He reminded the Committee that it had made a general recommendation on the subject.

37. The satisfactory resettlement of former refugees also depended on property legislation. The latter should be brought into conformity with international standards (particularly in the Republika Srpska) and fully implemented.

38. In conclusion, he shared the concerns expressed earlier over the lack of cooperation with the International Criminal Tribunal by the responsible bodies; the treatment of Roms and Sintis; and the possible withdrawal of the

international presence from Bosnia and Herzegovina. A continued presence was in his view essential from the humanitarian standpoint as well as that of international security.

39. Mr. GARVALOV noted with satisfaction that, for the first time since the situation in Bosnia and Herzegovina first became a matter of concern to the Committee, he had received encouraging signs regarding the solution of the main problems. The fact deserved to be reported in the conclusions of the Committee.

40. Clearly, great difficulties still remained; they were, moreover, being aggravated by the passage of time and by national and international considerations of a political character. One problem, the seriousness of which could not be overemphasized, was that of the return of the refugees and its corollary - the adoption of measures of a nature to create conditions in which they could not only return but also be accepted. That was a matter for education, not only in schools but also among the adult population. Bosnia and Herzegovina would need all the support possible in the pursuit of this task. After the terrible events which had torn the country apart, the completion of that task would inevitably take a long time; but the final objective should be the peaceful coexistence of the entire population of Bosnia and Herzegovina - Muslims, Serbs, Croats and others.

41. He then asked two questions on matters of minor importance. Firstly, referring to paragraph 7 of the core document (HRI/CORE/1/Add.89), stating the number of Muslims-Bosniaks, he asked whether there were Bosniaks who were not Muslims and who the inhabitants classified as "others" were. Paragraph 31 of the same document contained a statement to the effect that Bosnia and Herzegovina had become a complex State and that the Chamber of Peoples was made up of 30 Muslim Bosniak delegates, 30 Croat delegates and other delegates. He asked whether the delegates in the last-mentioned category represented the Republika Srpska.

42. Mr. Diaconu resumed the Chair.

43. Ms. McDOUGALL asked the Bosnia and Herzegovina delegation to describe in detail the measures taken, and the activities under way or planned, to give practical effect to the Dayton Agreement. She also asked for information on the present situation of the seven survivors of the Srebrenica massacre who had been convicted in the Republika Srpska of murder or illegal possession of weapons. Finally, she asked what had become of the instruction purportedly given by the Minister of Education that pupils should be segregated on an ethnic basis, officially to avoid discrimination, particularly against Croats. She had reason to believe that the measure had been rescinded, but asked what was being done to moderate the adverse effects it might have had.

44. Mr. RECHETOV reminded the meeting that, when the Hague Tribunal for the former Yugoslavia was established, it had been decided not to introduce or codify new provisions of international criminal law. Moreover, the Security Council had not defined the concept of ethnic cleansing. The result was an absence of a legal basis for the concept; that would explain why the International Criminal Tribunal had not been able to try anyone for those crimes.

45. Nobody seemed to be concerned with the judiciary system in Bosnia and Herzegovina. He, however, considered that the country would not be truly cleansed until its judicial machinery had been restored and would be able to try persons who had committed crimes during the war, setting aside all national prejudices.

46. Mr. van BOVEN considered Mr. Rechetov's criticisms of the International Criminal Tribunal for the former Yugoslavia unfounded. He pointed out that although the concept of ethnic cleansing had been defined in political terms by the General Assembly, no generally accepted definition existed in international criminal law. For that reason the Security Council did not mention it in the Statute of the International Criminal Tribunal for the former Yugoslavia. If it had done so, that would have been tantamount to creating new elements of law; but that was not its role.

47. Mr. JERKIC (Bosnia and Herzegovina) thanked the members of the Committee for their comments and welcomed the fact that the Special Rapporteur for Bosnia and Herzegovina intended to propose that the Committee should recommend the continuance and strengthening of the international presence in Bosnia and Herzegovina to help establish an even more democratic society there.

48. There had been no official census since 1991. However, the existence of over a million refugees and of 600,000 displaced persons had led to radical population changes in the nationwide structure of cities and regions. Their return did not only give rise to security problems; their hesitation to return to Bosnia and Herzegovina was frequently to be attributed to conditions of total uncertainty with regard to accommodation and employment. The return of refugees and displaced persons inevitably required the creation of the preconditions necessary for lasting economic development.

49. He stated that the consolidation of the police force into mixed units was proceeding successfully throughout the country. He also pointed out that cooperation with the international police forces was also improving steadily. However, he admitted that in certain regions the inhabitants had systematically refused to allow refugees and displaced persons to return. Such incidents were due to the influence exercised by certain local leaders who could not or refused to understand that things had changed. The Bosniak authorities were fully aware of those problems and were endeavouring to overcome them.

50. The question of segregation in schools resulting from the application of different school curricula had given rise to considerable interest in the Bosnian press. The Ministry of Education had begun the revision of those curricula with a view to excising all elements fostering hate and all mendacious historical data.

51. The search for missing persons was a highly sensitive humanitarian question. Substantial improvements had been achieved in that field thanks to the action coordinated by the International Commission on Missing Persons in the former Yugoslavia. Senator Dole, the head of the Commission, had been to Bosnia and Herzegovina three times and had met representatives of various political parties. The exhumation and identification of bodies was extremely

costly, and the Commission was endeavouring to find sufficient financial resources to complete its task.

52. In his view the process of democratization in Bosnia and Herzegovina was irreversible; but the country had to be able to rely on the concerted action of the international community.

53. Mr. NOBEL (Country Rapporteur for Bosnia and Herzegovina) began by urging the Committee to state clearly that it wished the federal ombudsman, and the other ombudsmen elsewhere in the country, should be able to continue with their work. He also noted with satisfaction that steps had been taken to review and improve school curricula with a view to ensuring that children were taught tolerance and respect for humanitarian values. The fate of the Roms, and the situations of individuals charged with desertion, should be examined in greater depth.

54. Speaking on the subject of the return of refugees and displaced persons to Bosnia and Herzegovina, and bearing in mind the confidential HCR note, Mr. Nobel remarked that the countries of asylum should slow down the process of voluntary repatriation until favourable conditions had been established. He recalled that, under the terms of the Geneva Convention on the Status of Refugees, voluntary repatriation was acceptable only if three conditions were met, namely: first, a political solution to the conflict which forced the persons concerned to flee had to have been accepted by the country of origin; secondly, the conditions of amnesty had to be clearly laid down, so that all concerned could determine whether they were liable to be charged in respect of events which occurred before they left; and thirdly, the social and economic context had to be such as to enable individuals who decide to return to their country to live decently.

55. In conclusion, he considered, like Mr. Jerkic, that the presence of the international community in Bosnia and Herzegovina should be extended.

56. Mr. RECHETOV proposed that the Committee should adopt a declaration inviting countries of asylum to slow down the repatriation process. However, the Committee should not offer a legal basis for the declaration; for in his view the individuals who had left Bosnia and Herzegovina were not political refugees within the meaning of the Geneva Convention on the Status of Refugees.

57. The CHAIRMAN stated that the Committee had concluded the consideration of the situation in Bosnia and Herzegovina, and that he would rule at a later meeting on whether the Committee should continue with the examination of the implementation of the Convention in Bosnia and Herzegovina under the heading of prevention of racial discrimination or under the normal procedure laid down in article 9 of the Convention.

58. The Bosnia and Herzegovina delegation withdrew.

The meeting rose at 5.45 p.m.

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Fifty-third session

SUMMARY RECORD OF THE 1285th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 10 August 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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GE.98-17551 (E)

The meeting was called to order at 10.15 a.m.

SOLEMN DECLARATION BY A RE-ELECTED MEMBER OF THE COMMITTEE UNDER RULE 14 OF THE RULES OF PROCEDURE

1. In accordance with rule 14 of the rules of procedure, Mr. WOLFRUM, re-elected a member of the Committee, made the following solemn declaration:

> "I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee on the Elimination of Racial Discrimination honourably, faithfully, impartially and conscientiously".

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Review of the implementation of the Convention in Haiti

2. The CHAIRMAN said that in the absence of the overdue tenth to thirteenth periodic reports from Haiti and the Haitian mission's failure to reply to an invitation to attend the meeting, the Committee had no choice but to review the situation on the basis of previous reports and information to be given by the Country Rapporteur.

3. Mr. RECHETOV observed that, as a matter of procedure in similar circumstances, the secretariat should continue to endeavour to have a representative of the mission in question attend such meetings, for their reactions were always useful.

4. Mr. LECHUGA HEVIA (Country Rapporteur), noting that Haiti had last submitted a periodic report in 1990, observed that the still unstable political situation in the country was compounded by a continuing economic and social crisis, Haiti being, according to the World Bank, the poorest country in the Western Hemisphere, with the richest 1 per cent of the population holding 44 per cent of national income.

5. Many factors were preventing Haiti from achieving better living standards for its people after so many years of repression, corruption and exploitation. Health care was woefully inadequate, with primary health care available to under 50 per cent of the population, a very high infant mortality rate and 50 to 70 per cent of health services concentrated in the capital in a country with a 70 per cent rural population. The gross national product has fallen a further 30 per cent in the previous decade. Life expectancy was 57 and the illiteracy rate 60 per cent in an overwhelmingly young population - 95 per cent of which was of African descent. Creole - the language of 80 per cent of the population - had now been made an official language, along with French, but was not used in most official documents or in court proceedings, and the inability of most of the population to speak French also limited its economic and political advancement.

6. Some progress had been made towards democratization and the establishment of institutions to safeguard human rights. However, the extent of the other problems - political violence, a weak judiciary, growing crime, impunity for political crimes, the economic crisis, the power of the

privileged few - bringing in their wake human rights violations of all kinds, distracted attention from racial discrimination and the relations between the black, mulatto and white populations. The 1987 Constitution did not specifically prohibit discrimination on the grounds of race, sex, religion, language, social status or physical or mental disability, although it did stipulate equal employment opportunity regardless of sex, religious belief or marital status, without, however, having set up any implementing government machinery. There was, for instance no legislation implementing article 4 of the Convention. There was a 1982 decree harmonizing penal law with international treaties to which Haiti was a party, but the Government had taken the position that there was no need to adopt further legislative or other measures because of the absence of racial discrimination or racist organizations or propaganda in the country.

7. Generally, any discrimination that did in fact occur was on the grounds of cultural identification, colour or social class. Moreover, women, especially rural women, did not have equal opportunities and hundreds of thousands of children worked in virtual slavery as exploited domestic servants.

8. The current Government of President Préval - the first democratically elected administration to succeed another, that of President Aristide - had since 1996 been trying to restore normalcy on the basis of the 1987 Constitution, which had never been fully implemented. It was impossible, however, to do away quickly with the legacy of so many years of bloody repression and arbitrariness, foreign military occupation, successive coups d'état, a perennial political crisis, economic and trade embargoes and consequent deprivation, affecting the most disadvantaged sectors. There had nonetheless been encouraging signs in 1998, confirmed by the General Assembly on several occasions, that the human rights situation in Haiti was improving. The Government had issued a declaration of principles expressing its determination to respect human rights and assume its responsibilities; the two United Nations missions in Haiti had achieved good results in reforming institutions and particularly in training a new police force; and valuable work had been done by the then Centre for Human Rights in assisting with the revision of laws and the training of magistrates.

9. The independent expert of the Commission on Human Rights had expressed concern about Haiti's democratic development, the weakness of the judiciary, overcrowding in prisons, social and economic conditions and the observance of basic human rights in his report (E/CN.4/1997/89), but had concluded that the situation of civil and political rights, at least, had improved considerably. Currently, a split in the Lavalas Movement, whose representatives had been voted into power twice, was complicating the political scene, creating disturbances and shaking the confidence of voters.

10. It was difficult to assess the implementation of the rights covered by the Convention for lack of up-to-date information on the demographic composition of the country, the social benefits enjoyed by the various social groups and the relations between the black, white and mulatto populations.

11. He hoped the Government would respond in its next report to all the concerns raised in the various intervening reports concerning Haiti and give

its version of the events of the last eight years, during which its situation had definitely improved. The Office of the United Nations High Commissioner for Human Rights could very usefully offer technical advisory services for the preparation of periodic reports should the Government so wish.

12. Mr. VALENCIA RODRIGUEZ said that there were still fundamental problems making it very hard for the Government to ensure the protection and enjoyment of human rights, including freedom from racial discrimination. The political situation, though no longer as chaotic as it once had been, was still highly unstable despite steps taken by the Government to improve it. The dire economic situation of Haiti remained a constant factor of instability. The glaring social inequalities, exploitation and corruption needed no comment. The population's extremely low literacy rate was another barrier to the enjoyment of human rights.

13. Haiti now needed more international cooperation in all fields and a United Nations presence was indispensable. The Committee must recommend that the Government should continue working with the Office of the United Nations High Commissioner for Human Rights to draw up the legislative, administrative and judicial measures that were imperative for compliance with the Convention.

14. Mr. de GOUTTES said that the Committee must, while bearing in mind the exceptional difficulties facing Haiti, remind the Government that it should take advantage of the advisory services provided by the Office of the United Nations High Commissioner to help it to comply with its reporting obligations.

15. In addition to the points mentioned by Mr. Lechuga Hevia, he would like more information about the steps taken by the Government to implement the recommendations of the National Commission of Truth and Justice regarding the need to reform the judicial system, the police force and the penitentiary system and to provide reparation to the victims of human rights violations committed by the Cédras Government and the two elected Governments and still being committed by the new and supposedly reformed Haitian National Police. Too few of those responsible for the violations - especially police officers - were being held to account. The Government was not doing enough in the battle against impunity.

16. The Government should also provide a specific assessment of what had been done in the area of human rights education with the assistance of the then Centre for Human Rights and now the Office of the United Nations High Commissioner.

17. Mr. YUTZIS observed that when the United Nations had intervened in Haiti, the country had been on the verge of dissolution as a State, and it was still now paying a high price for its history. He agreed that Haiti needed logistical support and assistance from the United Nations in monitoring the situation. The Chairman should ask the High Commissioner to provide any assistance the Government requested.

18. The CHAIRMAN said he had some doubts about the advisability of requesting the monitoring of the human rights situation in Haiti.

19. Ms. McDOUGALL said there were a number of issues that had been raised during the Committee's consideration of Haiti's previous report on which more information would be welcome, such as ethnic composition, socio-economic indicators and how they related to the marginalization of certain population groups, and judicial statistics on racist crimes. Furthermore, it would be useful to know whether legislation providing for impunity of offences committed during the coup d'état had been put into effect, particularly provisions relating to compensation for victims, and whether such legislation had resulted in any reconciliation.

20. Anyone who had ever been to Haiti could not fail to notice that the overwhelming majority of the population (95-98 per cent) was dark-skinned and lived in appalling poverty. The Country Rapporteur had drawn attention to the fact that 1 per cent of the population controlled around 40 per cent of the country's assets. So although there was no racial discrimination in national legislation, the stark reality of life was one of glaring inequalities, where the distribution of wealth was extremely uneven and closely linked to the colour of people's skin. The Government was unable to meet even the most basic needs of almost the entire population. The Committee must take note of the situation and monitor it closely in future to see whether it improved.

21. Mr. RECHETOV recalled that the multilateral intervention in Haiti dating back to 1994 had been prompted by concern about the human rights situation as well as about security. Yet in spite of the attention paid by the international community to such events and their consequences, it was still not clear whether the human rights situation in the country had really improved. Further monitoring of the situation was therefore needed. The Committee's work should not end with the report by the Country Rapporteur. The Committee should consider how to proceed, for instance by involving other United Nations bodies with greater insight into the situation. It must find a way of strongly urging the Haitian authorities to provide the requisite information.

22. Mr. van BOVEN agreed with Mr. Rechetov that the situation in Haiti warranted special attention; the concluding observations to be drafted by the Country Rapporteur on the subject should therefore go further than the standard formula used by the Committee when dealing with such cases in reflecting the concerns voiced by Committee members during the discussion. Regarding the need for monitoring and follow-up action, he suggested that the services of the Organization of American States currently operating in Haiti might be enlisted in helping the Committee to re-establish a dialogue with the Haitian authorities.

23. The CHAIRMAN, speaking in his personal capacity, concurred with much of what had been said so far, save for the latter suggestion by Mr. van Boven. Moreover, the implications of the Committee using confidential information collected by other United Nations bodies to fulfil its own mandate required further consideration. He also harboured doubts about the advisability of instructing the secretariat to seek information on the situation in a sovereign State which failed to comply with its reporting obligations without that country's consent. He would emphasize that the Committee was supposed to be investigating racial discrimination and not the human rights situation in general.

24. Mr. YUTZIS endorsed Mr. van Boven's comments on the need for the Committee to give special consideration to the case of Haiti, which should be reflected in its concluding observations. The Committee must explore different ways of obtaining more information on the country. To his recollection, the secretariat had been requested by the Committee in the past to provide such information on countries under special circumstances.

25. Ms. McDOUGALL said that the Committee needed to be rather more flexible concerning its sources of information in dealing with countries which faced a real crisis situation, particularly when, like Haiti, they enjoyed a long-standing relationship with the United Nations and its subsidiary bodies. She was aware that the High Commissioner for Human Rights had recently concluded a memorandum of understanding with the United Nations Development Programme (UNDP), which might provide useful socio-economic data. The Committee might wish to take advantage of such arrangements to exchange information with other United Nations bodies in future. It was not a question of seeking information without the consent of a sovereign State but rather of efficiently sharing between United Nations bodies information already available and collected with the knowledge of the host Government.

26. The CHAIRMAN, speaking in his personal capacity, maintained his viewpoint: a report by the Secretary-General of the United Nations on the situation of human rights in Haiti following a mission by an independent expert to the country (A/52/515) was available for consultation by the Committee, and he would be reluctant to request the secretariat to pursue the matter any further. It was true that in the past the secretariat had been requested by the Committee to seek additional information on certain matters. However, on such occasions briefings had taken place during private meetings and no official invitation had been extended to any special representatives or rapporteurs. Inviting such representatives to address the Committee, for instance, would not be in conformity with article 9 of the Convention. That being said, he would abide by the majority decision when the concluding observations on Haiti were submitted for final consideration.

27. Speaking as Chairman, he said he would take it that the Committee wished the Country Rapporteur to prepare draft concluding observations along the lines suggested by Mr. van Boven.

28. It was so decided.

CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES IN WHICH GENERAL ASSEMBLY RESOLUTION 1524 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION (agenda item 8) (CERD/C/343)

29. Mr. van BOVEN said that the Committee had not given substantive consideration to copies of petitions, reports and other information relating to Trust and Non-Self-Governing Territories since 1991. The reasons it had not done so since were twofold: time constraints and the number of urgent issues to be dealt with; and a lack of relevant input from the parties concerned. In the past the Committee had organized its work in three working groups which had dealt with the Territories in the Atlantic and Caribbean, the Pacific and Indian Oceans, and Africa, respectively.

30. Turning to article 15 of the Convention, he explained the purpose of the article and outlined the Committee's duties thereunder, as detailed in paragraphs 2, 3 and 4. Referring to paragraph 2 (a), he drew attention to the fact that there were no longer any Trust Territories as such and that the Committee had never received any copies of petitions from other United Nations bodies. Paragraph 2 (b) must have been drafted bearing in mind the close link between colonialist practices and patterns of racial discrimination.

31. As borne out by the summary records of the relevant meetings of that period, one of the main problems facing the Committee in fulfilling its mandate under article 15 was that the information generally provided by other United Nations bodies was inadequate; that situation remained unchanged. Among the reference documents provided by the secretariat were the Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (A/52/23) (Part I) and copies of working papers submitted to the Committee relating to the 17 different Territories, listed in paragraph 5 of document CERD/C/343. The report of the Special Committee (A/52/23) contained only some brief references to the work of the Committee on the Elimination of Racial Discrimination and its Convention (paras. 85, 93-94 and 95-96) and to the Third Decade to Combat Racism and Racial Discrimination.

32. Some States parties provided information on the situation of independent or Non-Self-Governing Territories in the framework of their reporting obligations under article 9 of the Convention. For example, in its fourteenth periodic report (CERD/C/299/Add.9), the United Kingdom had included information on implementation of the Convention in 11 dependent Territories.

33. Of the working papers on the 17 Territories listed in the note by the Secretary-General (CERD/C/343), only 7 provided information that was related to the principles and objectives of the Convention.

34. The working paper on Bermuda (A/AC.109/2075) was the only document to contain a specific section on race relations. According to the paper, a Commission for Unity and Racial Equality had been set up in 1995. Details were provided on the powers, scope and function of the Human Rights Commission and on amendments to the Criminal Code to make "racial harassment" and "racial intimidation" criminal offences. A draft code of practice had been drawn up and would provide guidelines for the elimination of racial and gender discrimination in employment.

35. According to the working paper on American Samoa (A/AC.109/2080), the Territory's population was growing rapidly. The increase of approximately 21 per cent since the 1990 census was placing a strain on the public infrastructure. It was estimated that over 88 per cent of the residents of the Territory were ethnically Samoan.

36. The working paper on New Caledonia (A/AC.109/2074) stated that, according to the 1989 census, the population of New Caledonia comprised 73,598 known indigenous Melanesians known as Kanaks, 55,085 persons of European origin, of whom 35,000 persons, known as Caldoches, were descendants of the early settlers, 18,936 were Wallisians and Tahitians and 16,554 others, mainly Indonesians and Vietnamese.

37. The Matignon Accords of 1988 had provided for a 10-year period of economic and social development and a self-determination referendum which was supposed to be held in 1998. At the 8th meeting of the Special Political and Decolonization Committee (Fourth Committee) on 28 October 1996, the representative of France had stated that the Accords were based on three essential principles, namely the right of New Caledonians to self-determination, decentralization, readjustment and economic and social development of the Territory. The inhabitants of New Caledonia would exercise their right to self-determination in 1998 and determine the future of the Territory through a ballot. He had also referred to efforts to promote the cultural identity of the Melanesian community and had said that the agency for the development of Kanak culture played a leading role in that respect. On the question of France's position on the status of the Territory, he had stated that France maintained its reservations regarding the competence of the United Nations to discuss the subject. France had always considered that Article 73 of the Charter did not apply to New Caledonia, nor to the overseas departments and territories as a whole. France had always considered that the Charter left to each State concerned exclusive competence to determine which of the Territories it administered constituted Non-Self-Governing Territories. No General Assembly resolution had been able to amend the Charter on that point and give the Assembly competence in that area. In accordance with Article 2, paragraph 7 of the Charter, the question of New Caledonia was a matter which lay essentially within domestic jurisdiction.

38. A bulletin issued by the International Working Group on Indigenous Affairs referred to a kind of stalemate with regard to the holding of the referendum. It seemed that preparations for the referendum had been delayed by a long-running dispute over the future of the nickel industry which accounted for 90 per cent of New Caledonia's exports.

39. The working paper on East Timor (A/AC.109/2079) stated that in resolution 32/34 of 28 November 1997 the General Assembly had rejected the claim that East Timor had been integrated into Indonesia, inasmuch as the people of the Territory had not been able to exercise freely their right to self-determination and independence. The paper also referred to the alarming human rights situation in East Timor. For example, in August 1996, in Viqueque, East Timorese had demonstrated against government-sponsored Muslim migrants to East Timor and had burned a number of shops owned by those migrants.

40. In 1997, tne Secretary-General of the United Nations had appointed Ambassador Jamsheed Marker of Pakistan as his Personal Representative for East Timor. The United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights had dealt extensively with the question of East Timor. The Commission on Human Rights in resolution 1997/63 on human rights in East Timor expressed, inter alia, the Commission's deep concern at the policy of systematic migration of persons to East Timor. Prospects for improvements in the situation in East Timor had improved with the recent political changes. The Ministers of Foreign Affairs of Portugal and Indonesia had met under the auspices of the United Nations. According to the International Herald Tribune of 6 August 1998, the two sides were close to some kind of settlement. However, any solution required the

full participation of representative leaders of the people of East Timor. It was not enough merely for the Governments of Portugal and Indonesia to decide on the fate of the Territory.

41. The working paper on the Cayman Islands (A/AC.109/2081) made a rather puzzling assertion that one of the contributing factors to social and racial harmony was the level of migration.

42. The report on Western Sahara (A/AC.109/2087) stated that intensive efforts had been made to break the deadlock in implementation of the settlement plan and that there had been positive developments, including the release of prisoners and detainees and contacts between the Government of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (Frente POLISARIO). The report also contained the texts of several Security Council resolutions and details of the work of the Personal Envoy of the Secretary-General.

43. By way of conclusion, he stated that from the perspective of race relations, human rights and the right to self-determination, which were interlinked, particularly in a decolonization process, the situation in at least three Territories, New Caledonia, East Timor and Western Sahara, needed to be monitored. The Committee should continue to follow developments there. More energetic efforts were needed to clarify the reasons why no copies of petitions pursuant to article 15, paragraph 2 (a), were available. If there were copies, the Committee should be duly provided with them. In materials prepared by the secretariat for the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and, indirectly, for the Committee itself, more systematic attention should be given to human rights considerations in general and to matters that were directly related to the principles and objectives of the Convention. Furthermore, the Special Committee should, in its future reports, provide a systematic review of race relations in countries and Territories. In addition, States parties that were administering Powers of dependent Territories should be encouraged to include information on those Territories in their periodic reports.

44. The CHAIRMAN thanked Mr. van Boven for his analysis. Speaking in his personal capacity, he recalled that there had been considerable dispute about article 15 during the drafting of the Convention. In the Committee's early years, when it had met in New York, information on Non-Self-Governing Territories had been available from the relevant Secretariat department at Headquarters. The Committee had appointed a number of working groups to share the task of sifting through the voluminous documentation to find the small amount of information relevant to its mandate. Ever since the Committee had begun to meet only in Geneva, the flow of information from the secretariat had all but ceased.

45. He was glad that the Committee had at last resumed its consideration of the situation in Non-Self-Governing Territories, and was anxious that the impetus should not be lost. He suggested that Mr. van Boven's conclusions and recommendations should be fully reflected in the Committee's report to the General Assembly and that States parties should be asked to provide information about the Territories under their jurisdiction, in their periodic

reports or in some other way. He agreed that the three Territories mentioned explicitly by Mr. van Boven (East Timor, New Caledonia and Western Sahara) deserved particular attention.

46. Mr. DIACONU agreed that the Committee must consider the situation in Non-Self-Governing Territories, which were as liable to suffer racial discrimination as any other part of the world. However, it had no mandate to discuss the political future of those territories. The Committee should consider any petitions submitted by the populations of those territories, and any reports prepared by the secretariat should give due attention to the question of racial discrimination. In particular, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples should give particular attention to the provisions of the Convention when drawing up its reports.

47. The issue might be included in the agenda of the planned World Conference against Racism, and the Secretary-General could be asked to prepare a report on racial discrimination in Non-Self-Governing Territories, with particular reference to the Convention. The Conference would then take note of the situation in its final declaration, which would be subject to follow-up measures.

48. Mr. WOLFRUM said that the Special Committee had included an item entitled "International Convention on the Elimination of All Forms of Racial Discrimination" in the agenda of its 1997 session. However, the Special Committee clearly needed to be encouraged to focus more closely on racial discrimination, since most of the working papers on individual Territories prepared for it by the Secretariat did not seem to mention that issue at all. States parties to the Convention should also be encouraged to include information about demographic composition and ethnic relations in the Territories under their jurisdiction in their periodic reports.

49. Mr. SHERIFIS said that it was much better to have one member analysing the issue, rather than the old system of consideration by working groups. He wondered why it was so difficult to find out whether petitions had been submitted by the population of one or another Non-Self-Governing Territory. There must be some department of the secretariat which was responsible for receiving such petitions and could provide the Committee with copies. He agreed with Mr. van Boven that all documentation prepared by the secretariat should take into account the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples, and that, while the recent developments in the situation in East Timor were to be welcomed, the population of the territory must be closely involved in all future negotiations. As the Chairman had said, the Committee should adequately reflect its discussion about article 15 of the Convention in its next report to the General Assembly.

50. Mr. VALENCIA RODRIGUEZ recalled that, in its early years, the Committee had analysed the documentation submitted to it about the Non-Self-Governing Territories and had submitted reports to the General Assembly, but it had never received very much response. With time, the activities of the Trusteeship Council had also become less important. When the Committee had

begun to meet only in Geneva, it had received very few documents from the Secretariat. He agreed that the issue should be fully covered in the Committee's report.

51. Mr. YUTZIS also agreed with Mr. van Boven's recommendations. The Territories he had singled out deserved the Committee's particular attention because of the serious situation prevailing there.

52. Mr. SHAHI said that the Committee had never reported fully on the situation in Non-Self-Governing Territories because the documents at its disposal had contained so little information about racial discrimination. To his knowledge, the Committee had never received copies of petitions submitted by the Non-Self-Governing Territories, but nor did he think it had ever actually asked for them. Perhaps it should do so now.

53. Likewise, he did not believe that the Committee had ever asked the administering Power of any Non-Self-Governing Territory for information, as it was entitled to do under article 15 (2) (b) of the Convention. Some administering Powers, such as the United Kingdom, had provided information of their own accord. Morocco, whose report (CERD/C/298/Add.4) the Committee had considered the previous week, had also provided a great deal of information about Western Sahara. The Committee might wish to ask other administering Powers for information about those Territories. However, he could foresee considerable difficulties in the case of East Timor, since Indonesia was not a State party to the Convention. He further drew the Committee's attention to its General Recommendation XXI, in which it laid out its position regarding the right to self-determination of peoples. Any statement by the Committee on the situation in East Timor or Western Sahara would need to be very carefully drafted.

54. The CHAIRMAN, speaking in his personal capacity, said that, as far as he was aware, the Committee had often pressed the Secretary-General for relevant information about the Non-Self-Governing Territories, without success. The difficulty of obtaining such information surely supported the Committee's case for holding one of its sessions every year in New York. He suggested that the Committee might mention in the letter transmitting its annual report to the General Assembly that it had resumed its consideration of the situation with regard to racial discrimination in the Non-Self-Governing Territories, under article 15 of the Convention. It could also request non-governmental organizations to provide it with relevant information.

55. Speaking as Chairman, he said that the delegation of Gabon had informed the Committee that it could not be present for the consideration of its periodic report, which was scheduled for the next meeting. He suggested that the Committee should nevertheless hear the presentation of the Country Rapporteur, Mr. Nobel, and discuss Gabon's report (CERD/C/315/Add.1).

56. It was so decided.

The meeting rose at 1 p.m.

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Fifty-third session

SUMMARY RECORD OF THE 1286th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 10 August 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

later: Mr. YUTZIS

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Czech Republic

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Second to ninth periodic reports of Gabon (CERD/C/315/Add.1; HRI/CORE/1/Add.65)

1. The CHAIRMAN said that the secretariat had received from the Permanent Mission of Gabon a letter dated 10 August 1988 informing it that, for reasons beyond its control, no Gabonese delegation would be able to attend the Committee's consideration of its second to ninth periodic reports and asking for consideration of those reports to be deferred. The Committee must therefore choose between discussing the periodic report in the absence of any representative of Gabon and acceding to the Mission's request.

2. Mr. NOPEL (Country Rapporteur) stressed that the report was very late. After its initial report in 1981, Gabon had not kept up with the requirement to submit timely periodic reports to the Committee. As there was little substance to it, he thought the report should be considered without delay so as to produce recommendations with a view to a better dialogue with Gabon in the future.

3. After an exchange of views in which Mr. BANTON and Mr. WOLFRUM took part, the CHAIRMAN invited Mr. Nobel to present his report on the implementation of the Convention in Gabon.

4. Mr. NOBEL (Country Rapporteur) said that Gabon ascribed the cumulative delays in the submission of its periodic reports to a lack of human resources. He emphasized that States were bound under the Convention to submit regular periodic reports to the Committee, and that they could if need be refer to the Committee's general guidelines regarding the form and contents of reports (CERD/C/70/Rev.3). Introducing the country's initial report (CERD/C/71/Add.1) in 1981, the representative of Gabon had indicated that his Government had seen no need to adopt legislative, judicial, administrative or other provisions in furtherance of the Convention because there was no racial discrimination among the constituent parts of the Gabonese nation. The Committee had indicated its regret that the report contained no information on steps taken by the Government to give effect to the Convention, pointing out that it was incumbent on Gabon to honour its obligations under article 9, among other things by providing the Committee with clear information on its constitutional, judicial, administrative and other measures as called for in the guidelines.

5. When the situation in Gabon was discussed in 1991, on the basis of the previous report (CERD/C/71/Add.1), the Committee had expressed regret that Gabon had not responded to the invitation to take part in the consideration of its periodic report and provide any relevant information. It had drawn the Government's attention to the possibility of taking advantage of the technical assistance services offered by the Centre for Human Rights in preparing its reports.

6. The report now under consideration was disappointing. The scant information it offered on the demographic composition of the country did not reveal what four groups were referred to in paragraph 7, what proportion of the population they represented, or what differences set them apart. Neither was there any information on the small pygmy population living in the equatorial forest that covered 90 per cent of the country. The report did not say how the pygmies fitted into society or to what extent they had access to education and other public services. Population density, at barely 4 per cent, was low, and the population was heavily concentrated in the large towns and oil-bearing coastal region. It would be helpful to know whether the 200,000 foreigners mentioned in paragraph 12 were included in the population figures established by the 1993 census. Given the estimate by UNHCR that there had been 860 refugees in Gabon at the beginning of 1998, were the figures up to date?

7. He would like to know what had happened to the thousands of people from Equatorial Guinea who, some 20 years earlier, had taken refuge in Gabon from the dictatorship at home, and to the 1,200 Rwandan asylum-seekers said to have been sent back across the border in August 1997. Such information would enable the Committee to determine whether the rights of all refugees, whatever their national or ethnic origin, were respected, whether foreigners enjoyed freedom of movement, and whether the dreadful living conditions in the refugee centres had improved.

8. Gabon had threatened in 1997 to expel all illegal immigrants, thus provoking a mass exodus of foreigners. He would therefore like to know what foreigners were now living in Gabon, what their legal status was, how they were treated and what legislative provisions they could invoke to become naturalized.

9. The 1997 U.S. Department of State report said of Gabon that there was ethnic favouritism in appointments and promotions in both the public and private sectors and in the army, the President's ethnic group being disproportionately represented. According to other sources, the two main ethnic groups (the Fang and the Echira, at 36 per cent and 25 per cent respectively of the total population) dominated political and economic life. A June 1998 article in Le Monde Diplomatique reported that the general public, demoralized by electoral fraud and ethnic rivalry, could only take to the streets to express its opinions; that discussion on the place of ethnic groups within the nation, although necessary, was regarded as dangerous and constantly deferred; that the main ethnic groups regarded the State as a means of ensuring their economic security and dominance; and that political parties mirrored ethnic divisions.

10. The report gave no information on how the Convention had been incorporated into Gabonese domestic law, whether any procedures existed for invoking it, whether legislation had been passed to prohibit racial discrimination as required by article 4, or how articles 6 and 7 were applied in Gabon. He had the feeling that the Gabonese leadership was loath to discuss ethnic questions lest it undermine national unity; but that attitude prevented Gabon from honouring its obligation to implement the Convention. For the rest, the situation in the country did not seem to be particularly worrisome; Gabon was not mentioned in the 1998 Amnesty International report.

Even so, it would be helpful if Gabon told the Committee frankly about the problems it encountered in implementing the Convention so that possible solutions could be discussed in a dialogue between the State party's representatives and the Committee.

11. Mr. WOLFRUM said he was surprised to read in paragraph 4 of the report that the Constitutional Court verified the constitutionality of international commitments entered into by Gabon; the procedure was rather unusual. Paragraph 7 said that racial discrimination was not a feature of the national culture; he thought it would be useful if the Committee had more information on the 40 ethnic entities that coexisted in Gabon and the cultural diversity that must be presumed to exist among them. It would also be gratifying to know what conditions governed participation by the country's pygmies in economic and social activities, and whether the provisions of article 3 of the Constitution prohibiting racial, ethnic or religious discrimination and regionalist propaganda, as mentioned in paragraph 17 of the report, appeared in the Penal Code. It was particularly important for Gabon to furnish information on case law in that area.

12. Mr. VALENCIA RODRIGUEZ, like Mr. Nobel, observed that Gabon excused its failure to submit periodic reports on the grounds of a lack of human resources, which was an admissible argument given the country's generally difficult economic situation. He urged Gabon to take advantage of the advisory services and technical assistance available from the Office of the High Commissioner for Human Rights so that it could regularly submit full reports.

13. He noted with satisfaction that Gabon had acceded to the main international human rights instruments and that the Convention, as an integral part of domestic legislation, could be invoked directly before the courts. He also noted the statement that racial discrimination was not a feature of the national culture but stressed, given the high proportion of foreigners living in the country and the considerable number of ethnic groups, that applying the Convention was especially important for Gabon.

14. He welcomed the encouraging information in the report on the constitutional safeguards against racial discrimination and guaranteeing freedom of conscience, together with other fundamental human rights. He was sorry, however, that the report said virtually nothing about government action to give effect to articles 4, 5 and 7 of the Convention. He therefore urged Gabon to give more specific information in its next report so that the Committee could better assess the way the Convention was being implemented. For that purpose it could refer to the general guidelines regarding the format and contents of reports and the Committee's concluding observations.

15. Mr. SHERIFIS agreed with the comments by the Rapporteur and the preceding speakers. He observed, besides, that the report contained a number of contradictions, not to say paradoxes. Gabon was one of the few countries to have established a ministry of human rights; the Committee often advocated the establishment of a commission on human rights, but even it never recommended a ministry. That, therefore, was a laudable development. At the same time, Gabon said, rather vaguely, that it intended to uphold the Convention without reporting anything specific it had done.

16. He, too, wondered about the conditions in which the 40 ethnic entities divided into four larger groups lived, and would like more specific information on the subject. On the other hand, he was impressed that schooling up to the age of 16 was compulsory and free. Given the Government's evident willingness to honour its commitments under the Convention, he hoped a direct dialogue could take place when the next periodic report was discussed, and thought that the Committee should invite the State party to take advantage of the technical assistance services on offer.

17. Mr. de GOUTTES regretted the lack of dialogue with the delegation. He found the report itself too short, although it did give some positive information on, for example, the recent constitutional amendments in Gabon (para. 2) and the status of the Convention, which could be invoked directly under domestic legislation. There were still large gaps, however, chief among them the lack of information on the criminal law punishing acts of racism. The Committee could not be satisfied just with the Constitution as assurance that a State party was implementing the Convention. The report said nothing about any prosecutions or judgements. Nor did it provide any socio-economic indicators of the conditions in which the country's various ethnic groups lived. Lastly, it gave no indication of steps taken or even planned to make the principles of the Convention known not only to civil servants but also to the general public. In view of the favouritism that seemed to exist in public life, publicizing the Convention widely would be a particularly valuable step.

18. Mrs. ZOU voiced dismay at the lack of basic information the Committee needed to get an idea of the situation in Gabon. The little information there was in paragraph 7 was far too vague. The 200,000 foreigners said to be living in Gabon represented a large proportion of the population. She understood that a good many Whites lived in Gabon, but they were privileged and could not therefore be victims of discrimination. She was, on the other hand, concerned at the fate of the Blacks, and especially the children. Were children taken into account in the statistic (paragraph 22 of the report) that the school attendance rate was close to 100 per cent? Lastly, she would like more detailed information about the pygmies' living conditions and the action that had been taken to avert threats to the forests where they lived.

19. Mr. YUTZIS commented how unusual it was for a former colonial country to devote so much of its State expenditure (17.2 per cent, according to paragraph 23) to national education. That was an undeniable success. But other questions remained to be answered. Gabon was an oil-producing country, and thus "wealthy" up to a point, but, as in other countries, the wealth did not benefit everybody. The report gave no indication of how wealth was distributed in Gabon, which was firmly committed to liberalism. Were some of the country's 40 ethnic groups not left to fend for themselves?

20. He returned to Mr. Valencia Rodriguez' point that Gabon, as a rich country, should stop pleading a lack of human resources as a reason for delays in submitting its reports. The Committee should remind the country that it could draw on technical assistance services to prepare the reports it had undertaken, under article 9 of the Convention, to submit.

21. Mr. SHAHI endorsed the previous speakers' comments. He would like the Committee to take note of the size of Gabon's education spending and urge the Government to take advantage of the technical assistance services it had frequently been offered.

22. The CHAIRMAN, speaking in his personal capacity, said that while he appreciated the considerable amounts spent on education, he felt it was important to look at that spending in context, for the figure given was a percentage of State expenditure, not of national income.

23. He then asked Mr. Nobel to offer his concluding observations on the Gabonese report.

24. Mr. NOBEL said he saw nothing to suggest serious problems in the situation in Gabon. On the other hand, amid the overall political situation in Africa in the 1990s, tensions had several times, and in several places, degenerated into ethnic conflict. It was not just for abstract reasons that the State party was required to fulfil certain obligations: potentially explosive situations were, in fact, a reality.

25. He proposed to contact the Permanent Mission of Gabon in Geneva informally and tell it that Gabon owed it to itself to take the Committee's recommendations seriously.

26. The CHAIRMAN announced that the Committee had concluded its consideration of the periodic report of Gabon, and that the secretariat would forward members' recommendations and questions to the Gabonese Government.

CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES IN WHICH GENERAL ASSEMBLY RESOLUTION 1524 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION (agenda item 8) (continued) (CERD/C/343)

27. Mr. de GOUTTES said he broadly agreed with the conclusions put forward by Mr. van Boven in his report (CERD/C/343). In the case of the proposed reminder to the Governments concerned to include in their periodic reports information on Non-Self-Governing Territories under their jurisdiction, however, he felt that all States that administered Non-Self-Governing Territories should be addressed, not just the three responsible for the territories identified by Mr. van Boven, Timor, the Western Sahara and New Caledonia. Document CERD/C/343 mentioned 17 Non-Self-Governing Territories. If the reminder was sent to only some States, the others might think they were not obliged to include such information.

28. The CHAIRMAN, speaking in his personal capacity, supported Mr. de Gouttes' proposal. The Committee could also decide to adopt a general recommendation addressed, without naming them, to all States administering a Non-Self-Governing Territory. That would enable the Committee to avoid any political problems.

29. Mr. GARVALOV pointed out that East Timor was on the list of the Ad Hoc Committee on the Situation with Regard to the Implementation of the

Declaration on the Granting of Independence to Colonial Countries and Peoples and was regarded as forming part of Indonesia, a State not party to the Convention.

30. The CHAIRMAN said that the fact that Indonesia was not a party to the Convention was no obstacle to the Committee's consideration of the situation in East Timor under article 15, on the basis of the information available to the Secretary-General.

31. Mr. BANTON pointed out that reports from the administering Powers already provided information about the Non-Self-Governing Territories, so no further recommendation was needed. He reminded members that the Committee's report on its first 20 years of existence also indicated what information administering Powers should provide under article 9.

32. Mr. WOLFRUM, supported by Mr. SHAHI and Mr. YUTZIS, disagreed. Reports submitted by the administering Powers under article 9 of the Convention contained very little information on human rights in the Non-Self-Governing Territories, yet the situation in some was disquieting and the Committee should discuss it.

33. The CHAIRMAN said that the information could appear in a report submitted under article 9 of the Convention.

34. Mr. WOLFRUM favoured a more flexible attitude, invoking either article 9 or article 15 depending on the circumstances. In the case of East Timor raised by Mr. Garvalov, article 15 would seem to be the more appropriate.

35. Mr. BANTON, like Mr. Wolfrum, believed that all the information the Committee needed should be obtained. He saw no purpose, however, in asking States parties to submit information under article 15 given the information they were supposed to provide under article 9. In 1989, the United Kingdom had sent the Committee a note verbale indicating that its report would be submitted under article 9, not article 15. It was in response to that note that the Committee had decided to specify, in its report on its first 20 years of existence, what information administering Powers should furnish in their reports under article 9.

36. Mr. RECHETOV pointed out that the reports called for in article 15 were submitted to other United Nations bodies and were therefore drafted from a viewpoint that did not necessarily correspond to the topics of concern to the Committee. Besides, they were no longer updated so regularly as during the period of decolonization just after the Second World War. The Committee must thus take steps to obtain the information it needed. He thought it preferable to identify the States administering Non-Self-Governing Territories and ask them specific questions, so that they could cover the material in their reports under article 9. He did not think the Committee would obtain the information it needed by making a recommendation to all States parties.

37. Mr. van BOVEN said that the Committee seemed to agree on two of the three proposals in his report, namely that it was necessary to check with the

secretariat that no petition had been submitted and that efforts must be made to ensure that the Special Committee paid more attention to Convention-related issues when it drew up its programme of work.

38. On the question of how to remind the administering Powers that they must provide information about Non-Self-Governing Territories, he sided with those who favoured a more general approach. The Committee should ask States administering Non-Self-Governing Territories to describe the situation as regards racial discrimination there in their reports submitted under article 9. Given the doubts over the status of Puerto Rico, New Caledonia, Aruba and East Timor, for example, the Committee should not seek to identify the States concerned specifically. On the subject of East Timor, he informed his colleagues that during the current session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities Indonesia had announced its intention of ratifying the International Convention on the Elimination of All Forms of Racial Discrimination.

39. The CHAIRMAN said he took it that the Committee wished Mr. van Boven to draft a general recommendation or observation for it to consider later.

40. It was so decided.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 3) (continued)

Czech Republic

41. Mr. DIACONU referred to reports in the press of Roms in two Czech villages who had been separated from the local population by walls erected in the middle of certain streets. As feelings in Europe and the United States had been running high over the situation, he had taken the initiative of asking the Permanent Representative of the Czech Republic to the United Nations Office at Geneva for clarification. In reply he had received a letter dated 7 August 1998 (reference No. 2697/98, in English).

42. The Czech Minister for Foreign Affairs had sent representatives to the spot, Rom associations had mobilized to defend their brethren's interests and the local authorities were trying to find a solution acceptable to the Roms. It would, Mr. Diaconu believed, be premature to embark on an urgent action procedure. The Committee had two options: wait until it was known what solution the local authorities had decided upon, or send a letter to the Czech authorities asking them, under article 9 of the Convention, what steps they intended to take to settle the dispute and thus comply with the Convention.

43. Mr. BANTON emphasized how grave the incidents were, since two ethnic communities had been physically segregated, and advocated sending a letter to the Czech authorities.

44. Mr. WOLFRUM also favoured that solution. Even if municipalities had certain powers at the local level, they remained under the supervision of the national authorities which had undertaken, by virtue of article 3 of the Convention, to condemn racial segregation and to prohibit and eradicate all practices of that nature in territories under their jurisdiction.

45. Mr. YUTZIS, endorsing the preceding speaker's legal approach, added that article 4 (c) of the Convention could also be said to have been breached, since States parties were required not to permit public authorities or public institutions, national or local, to promote or incite racial discrimination. As things stood, the best solution would be to send a letter to the Czech authorities.

46. The CHAIRMAN suggested that the Committee should mention the question in its annual report to the General Assembly.

47. Mr. SHERIFIS felt that the matter came under article 3 of the Convention and General Recommendation No. XIX. Besides taking a strictly legal approach, the Committee should express its indignation at any situation that amounted to the segregation of population groups on ethnic grounds, without in the present instance condemning the Czech Government, which had not yet reached any decision. A letter must be sent to the national authorities, and the matter must, as the Chairman proposed, be mentioned in the Committee's report to the General Assembly.

48. Mr. Yutzis took the Chair.

49. Mr. de GOUTTES also favoured a firm reaction from the Committee and pointed out that the State party had not merely undertaken to condemn certain acts committed on its territory but also to take positive action to ensure respect for civil rights. The European Commission against Racism and Intolerance had in March 1998 adopted a recommendation on combating discrimination against Roms, and people would not understand if the Committee remained silent on the subject. He therefore supported the idea of a written request for information to the Czech authorities.

50. Mr. van BOVEN said that the matter at hand was symptomatic of a mindset about which the Committee had already voiced concern as it completed its consideration of the most recent periodic report from the Czech Republic. A letter should be sent, and the matter should be mentioned in the Committee's report to the General Assembly.

51. Mr. RECHETOV said that the Committee should be on its guard against any decision by the authorities of the State party that might breach article 3 of the Convention. Racial segregation and apartheid could appear in new guises, and the Committee must condemn them unambiguously.

52. Mr. GARVALOV spoke of the fateful mistakes of the past and the lessons to be learned from them. He, too, favoured sending the Czech Government a letter and mentioning the incident in the annual report to the General Assembly.

53. The CHAIRMAN said there was clearly a broad consensus in favour of sending a letter to the authorities of the State party and referring to the question in the Committee's report to the General Assembly. He requested Mr. Banton to draft appropriate wording.

54. It was so decided.

The meeting rose at 5.50 p.m.